

DEPUTY JUDGE ADVOCATE'S OFFICE
7708 WAR CRIMES GROUP
EUROPEAN COMMAND
APO 407

UNITED STATES)

v.)

Valentin BERSIN, et al.)

Case No. 6-24

REVIEW AND RECOMMENDATIONS
OF THE DEPUTY JUDGE ADVOCATE
FOR WAR CRIMES

20 October 1947

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I. TRIAL DATA: The accused were tried at Dachau, Germany, during the period 18 May 1946 to 16 July 1946, before a General Military Government Court appointed by paragraph 24, Special Orders No. 90, Headquarters, Third U.S. Army, 9 April 1946, as corrected by paragraph 32, Special Orders No. 117, Headquarters, Third U.S. Army, 10 May 1946. A copy of the first described order is not bound with the record of trial. However, the correcting order in legal effect supersedes the first described order. The correcting order, i.e., the second described order, is complete in and of itself in that it states on its face that all of the first described order relating to the appointment of the Court is "amended and changed to read as follows."

II. CHARGES AND PARTICULARS.

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Valentin Bersin, Friedel Bode, Marcel Boltz, Willi Braun, Kurt Briesemeister, Willi Von Chamier, Friedrich Christ, Roman Clotten, Manfred Coblenz, Josef Diefenthal, Josef (Sepp) Dietrich, Fritz Eckmann, Arndt Fischer, Georg Fleps, Heinz Friedrichs, Fritz Gebauer, Heinz Gerhard Godloke, Ernst Goldschmidt, Hans Gruhle, Helmut Haas, Max Hammerer, Armin Hecht, Willi Heinz Hendel, Hans Hennecke, Hans Hillig, Heinz Hofmann, Joachim Hofmann, Hubert Huber, Siegfried Jakel, Benoni Junker, Friedel Kies, Gustav Knittel, Georg Kotsur, Fritz Kraemer, Werner Kuhn, Oskar Klingelhofer, Herbert Lesenski, Erich Maute, Arnold Mikolajczyk, Anton Metzheim, Erich Munkemer, Gustav Neve, Paul Hermann Oehmann, Werner Pedersen, Joachim Peiper, Hans Pletz, Georg Preuss, Hermann Triess, Fritz Rau, Theo Rauh, Heinz Rehagel, Rolf Roland Reiser, Wolfgang Richter, Max Rieder, Rolf Ritter, Axel Rodenburg, Erich Rumpf, Willi Schaefer, Rudolf Schwambach, Kurt Sickel, Oswald Siegmund, Franz Sievers, Hans Siptrott, Gustav Adolf Suranger, Werner Sternbeck, Herbert Stock, Erwin Szyperski, Edmund Tomczak, Heinz Tomhardt, August Tonk, Hans Trottin, Johann Wasenberger, Erich Werner, Otto Wischmann, Paul Wiegand, German nationals or persons acting with German nationals, being together concerned as parties, did, in conjunction with other persons not herein charged or named, at or in the vicinity of MALMEDY, HONCFELD, BUELLINGEN, LIENREVILLE, STONMONT, LA GLRIZE, CRENEUX, PETIT THIER, TROIS PONTS, STAVELOT, WANNE and LUTREBOIS, all in BELGIUM, at sundry times between 16 December 1944 and 13 January 1945, willfully, deliberately and wrongfully permit, encourage, aid, abet and participate in the killing, shooting, ill-treatment, abuse and torture of members of the armed forces of the United States of America, then at war with

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II. CHARGES AND PARTICULARS:

CHARGE: Violation of the Laws and Usages of War.

Particulars: In that Valentin Bersin, Friedel Bode, Marcel Bolts, Willi Braun, Kurt Briesemeister, Willi Von Chamier, Friedrich Christ, Roman Clotten, Manfred Coblentz, Josef Diefenthal, Josef (Sepp) Dietrich, Fritz Eckmann, Arndt Fischer, Georg Fleps, Heinz Friedrichs, Fritz Gebauer, Heinz Gerhard Godicke, Ernst Goldschmidt, Hans Gruhle, Helmut Haas, Max Hammerer, Armin Hecht, Willi Heinz Hendel, Hans Hennecke, Hans Hillig, Heinz Hofmann, Joachim Hofmann, Hubert Huber, Siegfried Jäkel, Benoni Junker, Friedel Kies, Gustav Knittel, Georg Kotzur, Fritz Kraemer, Werner Kuhn, Oskar Klingelhofer, Herbert Losenski, Erich Mautz, Arnold Mikolaschek, Anton Metzheim, Erich Munkemer, Gustav Neve, Paul Hermann Oebmann, Werner Pedersen, Joachim Peiper, Hans Pletz, Georg Preuss, Hermann Priess, Fritz Rau, Theo Rauh, Heinz Rehagel, Rolf Roland Reiser, Wolfgang Richter, Max Rieder, Rolf Ritter, Axel Rodenburg, Erich Rumpf, Willi Schaefer, Rudolf Schwambach, Kurt Sickel, Oswald Siegmund, Franz Siewers, Hans Siebrott, Gustav Adolf Sprenger, Werner Sternebeck, Herbert Stock, Erwin Szyperski, Edmund Tomczak, Heinz Tomhardt, August Tonk, Hans Trottin, Johann Wasenberger, Erich Werner, Otto Wischmann, Paul Zwiggart, German nationals or persons acting with German nationals, being together concerned as parties, did, in conjunction with other persons not herein charged or named, at or in the vicinity of MALMEDY, ROOSEVELT, BURELLINGEN, LIGNEVILLE, STOU MONT, LA GLEIZE, CHENEUX, PETIT THIER, TROIS PONTS, STAVELOT, WANNE and LUTREBOIS, all in BELGIUM, at sundry times between 16 December 1944 and 13 January 1945, willfully, deliberately and wrongfully permit, encourage, aid, abet and participate in the killing, shooting, ill-treatment, abuse and torture of members of the Armed Forces of the United States of America, then at war with

and numbers of such persons being unknown but aggregating several hundred, and of unarmed allied civilian nationals, the exact names and numbers of such persons being unknown.

A supplemental charge sheet, 17 April 1946, was filed in which the same offense was alleged against additional accused, Günther WEIS, Emil HERGETH, and Heinz STICKEL. Accused Helmut HAAS, Herbert LOSENSKI, Werner PEDERSEN, and Emil HERGETH were not tried. Marcel BOLTZ was arraigned but was withdrawn as an accused on 9 July 1946.

All accused were served with a copy of the charge and particulars prior to the trial (R 71, 72).

III. FINDINGS AND SENTENCES:

The Court found each of the accused guilty as charged and sentenced them as follows: (The numbers preceding the names are those assigned by the Court to the respective accused. These numbers may, on occasion, be used hereinafter to facilitate reference to the various accused.)

<u>ACCUSED</u>	<u>PLEAS</u>	<u>FINDINGS</u>	<u>SENTENCES</u>
1. BERSIN, Valentin	NG	G	Death by hanging
2. BODE, Friedel	NG	G	Death by hanging
3. BOLTZ, Marcel		Withdrawn	
4. BRAUN, Willi	NG	G	Life imprisonment
5. BRIESEMEISTER, Kurt	NG	G	Death by hanging
6. VON CHAMIER, Willi	NG	G	Life imprisonment
7. CHRIST, Friedrich	NG	G	Death by hanging
8. CLOTTEN, Roman	NG	G	10 years, commencing 16 July 1946
9. COBLENZ, Manfred	NG	G	Life imprisonment
10. DIEFENTHAL, Josef	NG	G	Death by hanging
11. DIETRICH, Josef (Sepp)	NG	G	Life imprisonment
12. ECKMANN, Fritz	NG	G	Death by hanging
13. FISCHER, Arndt	NG	G	15 years, commencing 16 July 1946
14. FLEPS, Georg	NG	G	Death by hanging
15. FRIEDRICHS, Heinz	NG	G	Life imprisonment
16. GEBAUER, Fritz	NG	G	Life imprisonment
17. GÖDDICKE, Heinz Gerhard	NG	G	Life imprisonment

	<u>ACCUSED</u>	<u>PLEAS</u>	<u>FINDINGS</u>	<u>SENTENCES</u>
18.	GOLDSCHMIDT, Ernst	NG	G	Death by hanging
19.	GRUBLE, Hans	NG	G	20 years, commencing 16 July 1946
20.	HAMMERER, Max	NG	G	Death by hanging
21.	HECHT, Armin	NG	G	Life imprisonment
22.	HENDEL, Willi Heins	NG	G	Death by hanging
23.	HENNECKE, Hans	NG	G	Death by hanging
24.	HILLIG, Hans	NG	G	10 years, commencing 16 July 1946
25.	HOFMANN, Heins	NG	G	Life imprisonment
26.	HOFMANN, Joachim	NG	G	Death by hanging
27.	HUBER, Hubert	NG	G	Death by hanging
28.	JÄKEL, Siegfried	NG	G	Death by hanging
29.	JUNKER, Benoni	NG	G	Death by hanging
30.	KIES, Friedel	NG	G	Death by hanging
31.	KNITTEL, Gustav	NG	G	Life imprisonment
32.	KOTZUR, Georg	NG	G	Life imprisonment
33.	KRAEMER, Fritz	NG	G	10 years, commencing 16 July 1946
34.	KÜHN, Werner	NG	G	Death by hanging
35.	KLINGELHOEFER, Oskar	NG	G	Death by hanging
36.	MAUTE, Erich	NG	G	Death by hanging
37.	MIKOLASCHKE, Arnold	NG	G	Life imprisonment
38.	MOTZHEIM, Anton	NG	G	Death by hanging
39.	MÜNCKEMER, Erich	NG	G	Death by hanging
40.	NEVE, Gustav	NG	G	Death by hanging
41.	OCHMANN, Paul Hermann	NG	G	Death by hanging
42.	PEIPER, Joachim	NG	G	Death by hanging
43.	PLETE, Hans	NG	G	Life imprisonment
44.	FREUSS, Georg	NG	G	Death by hanging
45.	FRIESS, Hermann	NG	G	20 years, commencing 16 July 1946
46.	RAU, Fritz	NG	G	Life imprisonment
47.	RAUH, Theo	NG	G	Death by hanging

<u>ACCUSED</u>	<u>PLEAS</u>	<u>FINDINGS</u>	<u>SENTENCES</u>
49. REISER, Rolf Roland	NG	G	10 years, commencing 16 July 1946
50. RICHTER, Wolfgang	NG	G	Life imprisonment
51. RIEDER, Max	NG	G	Death by hanging
52. RITZER, Rolf	NG	G	Life imprisonment
53. RODENBURG, Axel	NG	G	Death by hanging
54. RUMPF, Erich	NG	G	Death by hanging
55. SCHAEFER, Willi	NG	G	Death by hanging
56. SCHWAMBACH, Rudolf	NG	G	Death by hanging
57. SICKEL, Kurt	NG	G	Death by hanging
58. SIEGMUND, Oswald	NG	G	Death by hanging
59. SIEVERS, Franz	NG	G	Death by hanging
60. SIPROTT, Hans	NG	G	Death by hanging
61. SPRENGER, Gustav Adolf	NG	G	Death by hanging
62. STERNEBECK, Werner	NG	G	Death by hanging
63. STICKEL, Heinz	NG	G	Death by hanging
64. STOCK, Herbert	NG	G	Life imprisonment
65. ZYFERSKI, Erwin	NG	G	Life imprisonment
66. TOMCZAK, Edmund	NG	G	Life imprisonment
67. TOMHARDT, Heinz	NG	G	Death by hanging
68. TONK, August	NG	G	Death by hanging
69. TRETTIN, Hans	NG	G	Life imprisonment
70. WASENBERGER, Johann	NG	G	Life imprisonment
71. WEIS, Günther	NG	G	Death by hanging
72. WERNER, Erich	NG	G	Life imprisonment
73. WICHMANN, Otto	NG	G	10 years, commencing 16 July 1946
74. ZWIGART, Paul	NG	G	Death by hanging

IV. SUMMARY OF EVIDENCE:

A. Introduction:

The accused were involved in the execution of a common plan, which contemplated the application of terroristic methods in combat during the

Ardennes Counteroffensive. The Ardennes Counteroffensive on the western front was planned and designed by the Germans to drive through to Antwerp, Belgium, thereby dividing the Allied Forces lined up in the Aachen, Germany, area near the Belgium-Germany border (R 1567; F-Ex 127). The counteroffensive was launched on about 16 December 1944 and lasted until approximately 20 January 1945 (R 138; F-Ex 8). It was commonly known by the Germans as the "Eifel Offensive" (R 138, 162; P-Exs 8, 11) and by the Americans as the "Ardennes Offensive", "Von Rundstedt Offensive", or the "Battle of the Bulge." It is hereinafter referred to as the "Ardennes Offensive."

Among the major units participating in the offensive were elements of the Sixth SS Panzer Army under the command of accused General (SS Oberstgruppenführer; Generaloberst) Josef (Sepp) DIETRICH* (R 131, 138, 158; P-Exs 7, 8, 10).

The I SS Panzer Corps, the German title being "Leibstandarte-SS Adolf Hitler" (LSSAH), under the command of accused Major General (Generalleutnant) Hermann FRIESS, was attached to the Sixth SS Panzer Army and participated in the offensive (R 121, 131, 158; P-Exs 4, 7, 10). The 1st SS Panzer Division, the German title being "Leibstandarte-SS Adolf Hitler," under the command of Brigadier General (Oberführer) Wilhelm Mohrke, as well as the 12th SS Panzer Division, the German title being "Hitlerjugend", were elements of the I SS Panzer Corps (R 158, 1770; P-Ex 10).

Most of the evidence concerns atrocities allegedly committed by a combat team in the 1st SS Panzer Division, known as "Combat Group Peiper" and hereinafter referred to as such, which was under the command of accused Lieutenant Colonel (Obersturmbannführer), subsequently promoted to Colonel (Standartenführer), Joachim PEIPER (R 131, 139, 162; P-Exs 7, 8, 11).

In addition to the 1st SS Panzer Regiment, Combat Group Peiper apparently included attached troops from the following 1st SS Panzer Division units:

*To facilitate ready identification of accused in this Review and Recommendations their names hereinafter appear in capital letters.

501st Heavy Tank Battalion
1st Panzer Pioneer (Engineer) Battalion
1st Panzer Reconnaissance Battalion
2nd Artillery Battalion
68th Antiaircraft Battalion

The following smaller units are mentioned:

1st SS Panzer Regiment
Headquarters Company
9th Panzer Pioneer Company
1st Panzer Battalion
Headquarters Company
1st Panzer Company
2nd Panzer Company
6th Panzer Company
7th Panzer Company
2nd Panzer Grenadier Regiment
3rd Panzer Grenadier Battalion
Headquarters Company
9th Panzer Grenadier Company
10th Panzer Grenadier Company
11th Panzer Grenadier Company
12th Panzer Grenadier Company
1st Panzer Reconnaissance Battalion (eight companies)
2nd Reconnaissance Company
1st Panzer Pioneer (Engineer) Battalion
3rd Panzer Pioneer Company

In order that the evidence as to the existence of the common plan and the participation of the accused therein may be placed in its proper setting and evaluated in proper light, it is considered appropriate to invite attention to the following, all of which represents conclusions of the International Military Tribunal, Nuremberg, or evidence in the record of trial, except for the unit history information appearing in paragraph 6, below, for which there is some support in the record of trial:

1. All the accused were members of the Waffen SS (R 73).
2. Although the Waffen SS was under the tactical command of the Army, it was equipped and supplied through the administrative branches of the SS and under SS disciplinary control (International Military Tribunal, Nuremberg, Vol. 1, p. 260). PRIESS stated that the Waffen SS was under Himmler as to questions of personnel and "philosophical matters" (R 1767).

KRAEMER stated that the Sixth SS Panzer Army received personnel orders from the head office of the SS and one tactical order during this campaign direct from Himmler. The tactical order was not placed in effect (R 1678-1680).

3. At least during the year 1937 some effort was made to teach all SS officers in the military academies the significance of the tactics applied by Genghis Khan in warfare. A work by Michael Prawdin, Genghis Khan and his Legacy, was issued as source material. All SS men who graduated from officer candidate schools were given a copy of the book (R 1863). PRIESS received the same as a Christmas present from Himmler's office. It was stated in the book that the first attack, according to Genghis Khan's tactics, had to carry terror and panic to the remotest part of the country. The invaded country was to be paralyzed with fear. The inhabitants were to be made to realize that resistance would be a futility. Nothing was to remain in the cities except what could be of use to the Mongols, i.e., young women, skilled craftsmen, auxiliary services for the continuation of war, and strong slaves. It was also stated therein that the inhabitants of the invaded countries did not realize that the application of these terroristic tactics served two purposes for the invaders, (1) compensated for the small number of troops and (2) effected deception as to size of forces (R 1765-1768, 2024).

4. The International Military Tribunal, Nuremberg, stated:

"The truth remains that War Crimes were committed on a vast scale, never before seen in the history of war.** There can be no doubt that the majority of them arose from the Nazi conception of 'total war', with which the aggressive wars were waged. For in this conception of 'total war', the moral ideas underlying the conventions which seek to make war more humane are no longer regarded as having force or validity. Everything is made subordinate to the overmastering dictates of war. Rules, regulations, assurances, and treaties all alike are of no moment; and so, freed from the restraining influence of international law, the aggressive war is conducted by the Nazi leaders in the most barbaric way. Accordingly, War Crimes were committed when and wherever the Führer and his close associates thought them to be advantageous. They were for the most part the result of cold and criminal calculation.

"On some occasions, War Crimes were deliberately planned long in advance. In the case of the Soviet Union, the plunder of the territories to be occupied, and the illtreatment of the civilian population, were settled in minute detail before the attack was begun" (Vol. 1, pp. 226, 227).

"The treatment of Soviet prisoners of war was characterized by particular inhumanity. The death of so many of them was not due merely to the action of individual guards, or to the exigencies of life in the camps. It was the result of systematic plans to murder" (Vol. 1, p. 229).

"In 1945 Hitler requested the opinion of Jodl and Dönitz whether the Geneva Convention should be denounced. The notes of the meeting between the two military leaders on 20 February 1945 show that Dönitz expressed his view that the disadvantages of such an action outweighed the advantages. The summary of Dönitz' attitude shown in the notes taken by an officer, included the following sentence: 'It would be better to carry out the measures considered necessary without warning, and at all costs to save face with the outer world'" (Vol. 1, p. 314).

"As Reich Commissioner for the Occupied Netherlands, Seyss-Inquart was ruthless in applying terrorism to suppress all opposition to the German occupation, a program which he described as 'annihilating' his opponents" (Vol. 1, p. 329).

"There is evidence that the shooting of unarmed prisoners of war was the general practice in some Waffen SS divisions" (Vol. 1, p. 270).

"Hess wrote with truth that the Waffen SS were more suitable for the specific tasks to be solved in occupied territory owing to their extensive training in questions of race and nationality. Himmler, in a series of speeches made in 1943, indicated his pride in the ability of the SS to carry out these criminal acts. He encouraged his men to be 'tough and ruthless', he spoke of shooting 'thousands of leading Poles' and thanked them for their cooperation and lack of squeamishness at the sight of hundreds and thousands of corpses of their victims. He extolled ruthlessness in exterminating the Jewish race and later described this process as 'delousing'. These speeches show that the general attitude prevailing in the SS was consistent with these criminal acts" (Vol. 1, p. 272).

"On 12 May 1941, five weeks before the invasion of the Soviet Union, OKW urged upon Hitler a directive of OKH that political commissars be liquidated by the Army. Keitel admitted the directive was passed on to field commanders. And on 13 May Keitel signed an order that civilians suspected of offenses against troops should be shot without trial, and that prosecution of German soldiers for offenses against civilians was unnecessary. On 27 July all copies of this directive were ordered destroyed without affecting its validity. Four days previously he had signed another order that legal punishment was inadequate and troops should use terrorism" (Vol. 1, p. 290).

5. For at least two years starting about 1938 PEIPER was an adjutant of Himmler in the head office of the SS and he accompanied Himmler to observe the first gassing experiments on human beings (R 1968).

6. The 1st SS Panzer Division was formed in 1941 by expansion of the elements of the Leibstandarte (Hitler's Bodyguard Regiment). It was in the Balkans in the spring of 1941, southern sector of the eastern front

in the summer of 1941, the German counteroffensive for the recapture of Kharkov in March 1943, southern sector eastern front in the autumn of 1943, and eastern front in the spring of 1944. The 12th SS Panzer Division consisted largely of recruits from military fitness camps of the Hitler Youth and cadres from the 1st SS Panzer Division. The I SS Panzer Corps was formed in 1942 and was on the southern sector, eastern front, during the summer of 1943. The Sixth SS Panzer Army was formed near Paderborn, northwest Germany, in the autumn of 1944 and placed in charge of refitting Panzer divisions in preparation for new operations ("Order of Battle of the German Army", War Department, 1 March 1945; R 1288, 1683). The record of trial indicates that the 1st SS Panzer Division was on the eastern front and that PEIPER commanded one of the units thereof, i.e., a battalion which during the Ardennes offensive was the 3rd Battalion, 2nd Panzer Grenadier Regiment, attached to Combat Group Peiper and commanded by DIEFENTHAL. On the eastern front that unit followed the practice of shooting prisoners of war and civilians. After burning two villages and annihilating the inhabitants thereof, this unit acquired the name "Blow-Torch Battalion" (R 1288, 1289).

7. It is a historical fact that Hitler's position was precarious in the autumn of 1944. There is evidence in the record that during his two to three hour speech to Army corps and division commanders at Bad Nauheim, Germany, he emphasized this fact; that the coming offensive would spell Germany's fate; and that a wave of fright and terror should precede the troops (R 126, 158, 165; P-Exs 6, 10, 11).

The purpose of this introduction is to describe the setting and the background of the alleged fantastic common plan and the execution thereof. Cognizance of this setting and background is essential to an appropriate appraisal and evaluation of the true significance of the evidence as to the orders given and acts performed in conformity therewith.

B. General Outline of Campaign:

Units of Combat Group Peiper proceeded generally on the following itinerary: from the forest area around Blankenheim, Germany, on 16 December 1944, to Dahlem, Germany; thence to Hallschlag, Germany; thence to Schmid,

Germany; thence to Losheim, Germany; thence into Belgium during the night 16-17 December 1944 to Lanzerath; thence to Honsfeld which was reached by the point at approximately 0700 hours 17 December 1944; thence to Bullingen which was reached about 1100 hours 17 December 1944; thence to Schoppen; thence to Thirimont which was reached by the point about noon 17 December 1944; thence to the Malmedy Crossroads which was reached at about 1400 hours the same day; thence to Ligneuville (German name is Engelsdorf); and thence to Stavelot which was reached at about 2200 hours. In the morning of 18 December 1944 at about 1000 hours Stavelot was attacked and the column proceeded to the next village of Trois Pons, thence to La Gleize, thence to Cheneux, thence to Stoumont on 19 December, and thence to La Gleize (R 106, 203-207, 619, 645, 646, 648, 651, 667, 671, 672; P-Exs 3, 44, 46, 48).

C. Evidence for Prosecution:

1. Offensive Plans and Orders. The Sixth SS Panzer Army issued a field order over the signature of accused DIETRICH (R 138; P-Ex 8) setting forth the tactical aspects of the offensive. This order was drafted by the Chief of Staff of the Sixth SS Panzer Army, accused Major General (SS Gruppenfuhrer; Generalleutnant) KRAEMER, and was issued to all units concerned at some time between 6 December 1944 and 10 December 1944 (R 138; P-Ex 8).

An Army Order of the Day was issued by accused DIETRICH on about 14 December 1944 (R 138; P-Ex 8). The Army Order of the Day was the outgrowth of a meeting of the Fuhrer, Adolf Hitler, with Army, corps, and division commanders who were to participate in the offensive. It was held at Bad Nauheim, Germany, on 12 December 1944 (R 126, 162; P-Exs 6, 11). During the course of the meeting, Hitler spoke for about two or three hours and stated in substance that the decisive hour for the German people had arrived; that the impending battle must be won at all costs; that the fighting must be hard and reckless; that the troops must act with brutality and show no humane inhibitions; that a wave of fright and terror should precede the troops; and that the resistance of the enemy was to be broken by terror (R 126, 158, 165; P-Exs 6, 10, 11). The Army Order of the Day issued by accused DIETRICH

stated in substance that " *** our troops have to be preceded by a wave of terror and fright and that no humane inhibitions should be shown. *** that every resistance is to be broken by terror" (R 126; P-Ex 6). This Army Order of the Day was to be read to the troops immediately prior to the offensive (R 138, 139; P-Ex 8).

The Corps Commander, accused PRIESS, held a meeting, on 15 December 1944, of all his regimental commanders and the commanders of independent units under him. There were about 30 such commanders present, among whom were accused PEIPER and KNITTEL from Combat Group Peiper (R 165). Accused PRIESS spoke at this meeting concerning the speech that Hitler had made at Bad Nauheim and stated that on orders of the Fuhrer the troops were to fight with reckless brutality. The language PRIESS employed was the language of the Army Order of the Day (R 165, 166).

On 14 December 1944, the division commander of the 1st SS Panzer Division conferred with accused PEIPER and related to him the substance of the speech by Hitler at Bad Nauheim. He stated that the battle had to be fought without humane inhibitions and one should remember the victims of the bombing terror (R 165; P-Ex 11). At this same time accused PEIPER received the field order and information concerning the disposition of the enemy troops (R 163; P-Ex 11). Upon returning to his command post in Blankenheim Forest, accused PEIPER ordered his adjutant, accused Captain (Hauptsturmfuhrer) GRUHLE, to call a commander's meeting at 1600 hours on that day. For two hours prior to the meeting accused PEIPER studied the material obtained from the 1st SS Panzer Division. He ascertained, among other things, that it contained the Sixth SS Panzer Army Order of the Day directing that a wave of terror and fright precede the German troops; that the German soldiers recall the innumerable German victims of the bombing terror; that enemy resistance was to be broken by terror; and that prisoners of war must be shot when the local conditions of combat so required (R 163; P-Ex 11). This Army Order of the Day was incorporated into the regimental order by accused GRUHLE on orders issued by accused PEIPER (R 164; P-Ex 11).

The commanders of the major units comprising Combat Group Peiper assembled at the command post at 1600 hours. Included in the conference were his adjutant, Captain (Hauptsturmführer) GRUELE; his surgeon, Major (Sturmbannführer) SICKEL; his signal officer, Lieutenant (Obersturmführer) Krause; Major (Sturmbannführer) Pootschke, commanding the 1st Battalion; Lieutenant Colonel (Obersturmbannführer) Von Westerhagen, commanding the 2nd Battalion; Captain (Hauptsturmführer) DIEFENTHAL, commanding the 3rd Battalion; Captain (Hauptsturmführer) Schlett, commanding the 2nd Artillery Battalion; Major (Sturmbannführer) Wolf, commanding the 68th Antiaircraft Battalion; Major (Sturmbannführer) KNITTEL, commanding the 1st Reconnaissance Battalion; Lieutenant (Obersturmführer) Hardieck; and Captain (Hauptsturmführer) Otto, commanding Headquarters Service Company, 1st SS Panzer Regiment (R 184, 1904, 1905; P-Ex 11).

At a meeting of the company commanders of the 1st Panzer Battalion, commanded by Major (Sturmbannführer) Pootschke, held at the regimental command post on 15 December 1944, the company commanders present were informed orally of the regimental order, and were told that the enemy resistance was to be broken by terror (R 388; P-Ex 25); that no prisoners were to be taken (R 300; P-Ex 18); that ahead of the troops Lieutenant Colonel (Obersturmbannführer) Skorzeny's unit, known by the code name "Grief", would destroy communications and spread terror and panic; and that all scruples and humane feelings were to be thrown overboard (R 261, 290, 298-300; P-Exs 15, 17, 18). Major Pootschke talked to the assembled groups and PEIPER made intermittent comments (R 261, 299; P-Exs 15, 18).

Pursuant to PEIPER's orders, commanders at all levels held meetings with their subordinates to instruct them as to the plans for the offensive (R 202, 239, 240, 300, 347, 348, 390; P-Exs 14, 18, 20, 25).

2. Designation of Incidents. Incidents involving the shooting of unarmed, surrendered American prisoners of war and unarmed civilians took place at various points along the route of advance. In most instances more than one incident took place in the same locality. For purposes of clarity the incidents are designated by a geographical name representing the general

area in which the respective incident or series of incidents took place.

Taken in the general order of concurrence, the incidents are as follows:

- a. Honsfeld
- b. Bullingen
- c. Crossroads, located about four kilometers southeast of Malmédy and about four kilometers north of Ligneuville
- d. Ligneuville
- e. Ligneuville-Stavelot Road
- f. Stavelot
- g. Cheneux
- h. La Gleize
- i. Stoumont
- j. Wanne
- k. Luttrebois
- l. Trois Fonts
- m. Petit Thier

3. Incidents.

a. Honsfeld. Combat Group Peiper proceeded without any incidents of interest from the Blankenheim area to Honsfeld, Belgium. American troops assigned to various units of the 612th Tank Destroyer Battalion were located in this area (R 896, 901, 907, 910; P-Exs 69, 70, 71, 72). In the early morning hours of 17 December 1944, the Germans attacked the various positions occupied by the Americans. In one instance a house containing 18 enlisted men and four officers was surrounded by troops of the 1st SS Panzer Division and was in the process of being destroyed by "88's" when a white flag was displayed from a window and firing on both sides ceased. A group of 12 Americans, holding a large white flag, walked out of the house, and were shot down "in cold blood" by the Germans (R 891; P-Ex 68). Later a German soldier went to the house and marched the remaining men out of the house to apparent safety where they joined a group of about 200 prisoners. This group was later joined by other prisoners from time to time and were marched toward the rear. A German tank opened fire on the column and two American prisoners were killed. This practice continued as the column of prisoners marched along the road (R 891, 898; P-Exs 68, 69).

In the vicinity of Honsfeld, about 0800 hours 17 December 1944, the bodies of 15 or 20 American soldiers were seen lying close together, apparently dead (R 610, 620, 712; P-Exs 44, 51). Inquiry by accused SIRENGER revealed that the soldiers had been shot from accused GOLDSCHMIDT's troop carrier (R 621, 712, 713; P-Exs 44, 51). About 15 or 20 meters from the American bodies

there was a large white cloth about the size of a bed sheet thrown over a bush (R 620; P-Ex 44).

Members of the 3rd SS Panzer Company saw, in the same vicinity where the 15 or 20 dead American prisoners lay, 6 to 10 American prisoners of war standing in front of a house with their arms raised in surrender (R 620, 646, 668, 682; P-Exs 44, 46, 48, 49). In the afternoon of the same day seven bodies of American soldiers were discovered in front of this house by a Belgian civilian (R 913, 914; P-Ex 73). This civilian was told by an SS man of the 1st SS Panzer Division that these American soldiers had been lined up in a row and shot (R 916).

b. Bullingen. Shortly before the 3rd SS Panzer Company arrived at the airport near Bullingen on 17 December 1944, six or eight unarmed and surrendered American prisoners of war were seen walking along the road toward the rear of Combat Group Peiper. Sergeant Sopo Witkowski of the 3rd SS Panzer Company gave the command, "Ready, bump 'em off," to his group. In response to the order, accused JAKEL shot two or three rounds into the group of surrendered prisoners. Other members of the personnel carrier employed such weapons as a machine pistol, a machine gun, and a rifle to fire into these unarmed and surrendered prisoners. The Americans fell to the ground when fired upon (R 683; P-Ex 49).

Between the air field and Bullingen the crew of a half-track belonging to the 3rd SS Panzer Company fired into two separate groups, each consisting of from five to eight unarmed and surrendered American prisoners of war (R 683; P-Ex 49). Another group of the 3rd SS Panzer Company found seven or eight American soldiers in the cellar of a house in the vicinity of Bullingen, ordered them out of the cellar, searched them, lined them up against the house, and proceeded to shoot them with a machine pistol and a pistol (R 713; P-Ex 51). Another group of 15 to 20 American soldiers in a second house were captured. They were sent to the first house and shot (R 645, 684; P-Exs 46, 49).

As elements of the 3rd SS Panzer Company were about half way between the air field and Bullingen they met about 12 to 14 surrendered American soldiers marching toward the rear with their hands raised above their

heads. They were fired upon by personnel in several of the personnel carriers with machine pistols and rifles. Some of them were seen to fall to the ground. Soon after entering Bullingen the same elements of the 3rd SS Panzer Company captured 12 to 15 American soldiers in a house. A few minutes after they were removed from the house shots were heard (R 647, 648; P-Ex 46).

An American prisoner of war, a flight officer, was shot to death near Bullingen after he had been interrogated by accused PREUSS, commander of the 10th SS Panzer Company (R 942; P-Ex 74).

At Bullingen 8 or 10 unarmed American soldiers came out of a house with their hands above their heads, waving a white cloth about 60 by 70 centimeters in size. The company commander of the 1st SS Panzer Company motioned to the American soldiers. As they approached to within 10 meters of his vehicle they were shot with machine guns (R 950-952).

Two other American prisoners of war, unarmed, with hands over their heads, and not trying to escape, were shot in the back by a member of the 10th SS Panzer Grenadier Company at Bullingen at about 0800 hours 17 December 1944 (R 948).

In Bullingen, Haas and accused RIEDER, both members of the 9th SS Panzer Pioneer Company, entered a house and found a woman of about 40 years of age. She was asked by Haas whether any American soldiers were in the house and when she replied in the negative, Haas said, "Rieder, bump this woman off." Accused RIEDER then shot the woman in the forehead with his rifle (R 756; F-Ex 57).

Upon the conclusion of the fighting at Bullingen, noncommissioned officers of the 9th SS Panzer Pioneer Company reported to the company commander that no prisoners of war were taken at Bullingen and that those Americans found in houses at Bullingen were "bumped off" (R 735; F-Ex 55).

About a kilometer beyond Bullingen in the direction of Thirimont, a group of six to eight American prisoners of war were shot by personnel of the 3rd SS Panzer Company. These prisoners were, at the time they were shot, unarmed, with their hands raised in surrender, and walking toward the rear of the German column. Later, another group of about the same size was shot under similar conditions (R 684; F-Ex 49).

c. Crossroads. Elements of Combat Group Peiper arrived at a road intersection between Malmedy and Ligneuville, known as the "Crossroads," between 1200 and 1400 hours, 17 December 1944. The Crossroads is located about four kilometers southeast of Malmedy at a point where one road leads northwesterly to Malmedy, another northeasterly to Waimes, and another south about four kilometers to Ligneuville (R 1247, 1391, 1392; F-Exs 96, 108).

There was a house located south of the intersection on the west side of the road leading to Ligneuville. An American truck headed in the direction of Malmedy was parked on the road just north of the intersection, and a column of about 20 to 30 American trucks, headed toward Ligneuville, was parked on the west side of the road just south of the Crossroads (R 407, 799, 1247, 1391; P-Exs 60, 96, 108). These trucks, part of the equipment of the American 285th Field Artillery Observation Battalion, had been subjected to such intense small arms, mortar, and artillery fire from the Germans that they could not proceed (R 407, 408, 443). Personnel from this American column were taken captive by elements of Combat Group Peiper and herded into a pasture (R 412-414, 1247, 1392; P-Exs 96, 108) which was south of the house and barn located near the Crossroads (R 623, 685; P-Exs 44, 49). Before being sent into the pasture the American prisoners of war were searched and their valuables and cigarettes were taken from them (R 414, 510). The number of prisoners herded into this pasture was variously estimated at figures ranging from 80 to 200 men (R 415, 436, 461, 596, 758; P-Exs 27, 43, 57). The American prisoners of war were lined up in an "oblong company formation," unarmed, and with their hands raised in surrender (R 415, 527). Among these American prisoners of war were American medics with arm bands, and red crosses painted on their helmets (R 416, 439, 501, 580, 590; P-Ex 42). One medic, Corporal Indelicate, was shot and killed while engaged in bandaging a wounded American (R 438, 449-451, 482, 501, 502).

German armored vehicles, a tank, and half-tracks were moved into positions from which the crews could fire upon the unarmed American prisoners of war in the pasture (R 417, 438, 451, 452, 596, 597; P-Ex 43). German armored vehicles proceeded along the road opposite this group of American prisoners. One of the vehicles stopped and a German soldier took deliberate aim and fired into the prisoners, hitting at least one of them (R 417, 418, 438). This was repeated and another American prisoner of war fell from this group (R 484). At about this time machine guns, machine pistols, and other automatic weapons were fired from the armored vehicles into the group of prisoners standing in the pasture (R 420, 421, 451, 485, 597, 649, 670, 686; P-Exs 43, 46, 48, 49). All or most of the American prisoners fell or threw

from one-half minute to fifteen minutes (R 431, 435, 440, 449, 470; P-Exs 46, 48). Most of these American prisoners were hit by this automatic weapon fire (R 439, 440, 461; P-Ex 27). After the firing ceased, groups of German officers and men moved among the prostrate forms of the American prisoners of war shooting those who appeared to be still alive (R 422, 452, 453, 487, 529, 567, 597, 625, 670, 687, 713; P-Exs 40, 43, 44, 48, 49).

As other German vehicles came opposite the pasture in which the American prisoners of war were lying, the occupants of the vehicles fired small arms into the midst of the prisoners (R 487, 1416; P-Ex 111). Some time after this activity ceased, some survivors, even though wounded, were able to escape and receive medical aid (R 423, 488, 530). There was no conduct on the part of the prisoners that prompted the shooting, such as making an effort to escape or offering resistance (R 483, 527, 537, 567, 649, 688; P-Exs 40, 46, 49). This unwarranted shooting of surrendered and unarmed prisoners of war was carried out by elements of various units of Combat Group Peiper (R 595, 618, 623, 720, 755, 757-759, 787; P-Exs 43, 44, 52, 57, 59).

Smaller groups of six to eight American prisoners of war who were unarmed and surrendered were shot in this same vicinity by elements of the same units (R 650, 788; P-Exs 46, 59).

d. Ligneuville (Engelsdorf). After leaving the Crossroads the German column resumed its advance toward Ligneuville. Near the town another group of 50 dead American prisoners of war were seen lying near the road. They had no weapons and were grouped too closely together to have been killed in combat (R 688; P-Ex 49).

At Ligneuville, about 1600 hours 17 December 1944, eight prisoners of war were shot by personnel of the 9th SS Panzer Company (R 967, 968, 988, 989).

e. Ligneuville - Stavelot Road. Between Ligneuville and Stavelot 13 American prisoners of war were seen marched down a lane which led from the main road to a farmhouse. A troop carrier was parked nearby and these prisoners were in the custody of one of the members of the crew. It was later reported that these prisoners had been shot by personnel from that vehicle (R 689; P-Ex 49).

shoot eight American prisoners of war who were unarmed and had surrendered. The order was carried out as having been dictated by military necessity and revenge. The revenge motive resulted from losses sustained by his units. This took place at the edge of a woods near a single house located near Ambleve Bridge, three kilometers west of Stavelot (R 1106-1108; P-Ex 82). This incident is corroborated by the testimony of two witnesses for the prosecution (R 1038-1040, 1054, 1055).

Units of Combat Group Peiper continued their advance to Stavelot and reached there on 18 December 1944 (R 206). In Stavelot, eight Belgian civilians, an old man, three children, including an eighteen months old baby, and two men and their wives were fired upon by a German tank shortly after these civilians had passed by the tank which was one of four parked on the road leading to the hospital (R 981-984, 998). One woman and one man were killed and two persons were severely wounded by the machine gun bullets fired from the tank (R 922, 923, 992-995). None of these civilians had committed any hostile acts (R 992-996).

On the outskirts of Stavelot, on the evening of 18 December 1944, two occupants of a house were shot by members of the 6th SS Panzer Company (R 1110-1112, 1127; P-Ex 84).

On 18 December 1944, on the edge of Stavelot on the road to La Gleize, personnel from the vehicle of the commander of the 1st SS Panzer Company fired into a group of 15 to 20 women, and three or four fell to the ground. Other elements of the unit fired machine guns and three or four more women fell (R 598, 1004-1006; P-Exs 43, 78). Two more Belgian civilians were shot under a railroad bridge by a member of a unit of Combat Group Peiper (R 1040, 1041). On the night of 19 December 1944, 26 Belgian civilians had collected in the cellar of a house on the outskirts of Stavelot. Two grenades were thrown into the cellar and exploded, injuring some of the occupants of the cellar (R 1077-1085). Then the occupants were told by the Germans to come out and, as they did so, were shot by the German soldiers using machine pistols and rifles. Of the 26 civilians, 23 were killed, i.e., two men, eight women, the balance being children and young girls (R 1076-1079). Other instances of killing unarmed Belgian civilians occurred around Stavelot (R 1467; P-Ex 114).

machine guns into the shed. Then German soldiers dressed in camouflaged suits resembling American uniforms came into the shed and proceeded to "finish off" those who were gasping. After the shooting ceased, the shed was set afire but eight persons escaped (R 1010-1032, 1043).

A total of 93 Belgian civilians were shot by German SS troops in the vicinity of Stavelot (R 1130, 1131). None of these civilians engaged in combat (R 1137).

g. Cheneux. Some units of Combat Group Peiper proceeded to Cheneux and vicinity where they were subjected to a very severe air attack (R 1300, 1394; F-Exs 98, 108). In the vicinity of Cheneux two American soldiers in a jeep were attacked by machine gun fire, one American being killed. The other occupant pretended to be dead but was captured by accused ZWIGART and taken out of the jeep (R 1263, 1264, 1282, 1283). While his hands were clasped over his head, the American prisoner of war was shot to death a few meters from the vehicle in which the commanding officer of Combat Group Peiper was riding (R 1274, 1275, 1291, 1292; F-Ex 97). In the evening of 18 December 1944, these German units collected 30 to 40 American prisoners of war on the outskirts of Cheneux. A command was given to shoot these unarmed prisoners while they were standing with their hands clasped behind their heads. They had done nothing to provoke the shooting. German personnel from four or five tanks and a half-track proceeded to fire upon these prisoners (R 1233, 1234; F-Ex 94).

h. La Gleize. Among the elements of Combat Group Peiper entering La Gleize, about 1500 hours 18 December 1944, were units of the 11th SS Panzer Grenadier Company (R 1214, 1223, 1228, 1233, 1238, 1247, 1248; F-Exs 91, 92, 93, 94, 95, 96), 9th SS Panzer Pioneer Company, and the 3rd SS Panzer Pioneer Company (R 681, 691, 692; F-Ex 49).

About 15 American prisoners of war were standing in front of a stone wall surrounding a church and cemetery. While their hands were clasped behind their heads, a German personnel carrier stopped opposite them and the crew proceeded to fire upon them with machine guns, machine pistols, carbines, and pistols. The American prisoners fell to the ground and no longer moved (R 1214, 1228, 1238, 1239; F-Exs 91, 93, 95). Directly in front of the church, inside the wall, another group of approximately 20 to 30 unarmed and surrendered

American prisoners of war had been collected. They were shot with rifles, machine guns and pistols by troops belonging to Combat Group Feiper (R 1223, 1239; F-Exs 92, 95). Another group of 10 to 15 prisoners were shot in front of a house near the church (R 1247, 1248; F-Ex 96).

During the period 18-23 December 1944, other units of Combat Group Feiper entered La Gleize, departed therefrom, and returned thereto (R 598, 632, 655, 671, 672, 1248; F-Exs 43, 44, 46, 48, 96). Unarmed and surrendered American prisoners of war were frequently killed by units of Combat Group Feiper during these six days (R 1247-1253; F-Ex 96).

A pasture in the vicinity of a school house was the local for the shooting of a number of unarmed and surrendered American prisoners of war (R 633, 634, 656, 1307, 1320, 1447; F-Exs 44, 46, 99, 115). Other shootings of American prisoners of war occurred (R 1455, 1492, 1486; F-Exs 117, 118, 119). Some of these shootings were carried out with the approval of accused FEIPER (R 740, 1007, 1320, 1448, 1553; F-Exs 55, 78, 115, 125).

1. Stoumont. On the morning of 19 December 1944, after various units of Combat Group Feiper had left Lignyville, Stavelot, and La Gleize, the column arrived in Stoumont. Numerous shooting incidents took place there.

On one occasion while seven surrendered and unarmed American prisoners of war were being evacuated to the rear of the German lines by a paratrooper, elements of the 11th SS Panzer Company relieved the paratrooper of his charges and proceeded to shoot and kill the seven unarmed prisoners near the edge of a pasture, using pistols and fast firing rifles (R 1380, 1395; F-Exs 106, 108).

On the same day, elements of the 3rd Panzer Pioneer Company shot and killed four unarmed and surrendered American prisoners of war in an open field and some in a chicken house, using machine pistols. A civilian was also shot and killed (R 689, 690; F-Ex 49).

Elements of the 9th SS Panzer Company were seen marching unarmed and surrendered American prisoners of war to the rear and returning to their positions without them (R 690; F-Ex 49).

At a late morning hour on 19 December 1944, elements of the 3rd Panzer Pioneer Company observed two unarmed American soldiers carrying a wounded German soldier.

pursuant to an order that they be "bumped off," the Americans were shot to death with machine pistols. The Americans did nothing to provoke the shooting (R 627, 628, F-Ex 44).

About one half hour or one hour later, two unarmed Americans were seen carrying a wounded American soldier on a litter. These two Americans were ordered to proceed with a third American to the spot where the first two Americans had been shot. When these unarmed and surrendered American prisoners of war reached the spot, they were shot to death with a machine pistol (R 652, 671, 713; F-Exs 46, 48, 50) by members of the same units.

On 19 December 1944 approximately 15 to 20 unarmed and surrendered American prisoners of war were shot and killed by the crew of a German Mark IV tank at a point next to a house which was thought to be the command post of accused PEIPER (R 631, 1320-1327; F-Ex 44). At about this time three unarmed and surrendered American prisoners of war were shot to death in the presence of accused PEIPER (R 631, 632; F-Ex 44).

Elements of the 2nd SS Panzer Company also participated in the unlawful killings at Stoumont (R 1316, 1317; F-Ex 101). Fifteen to 25 unarmed and surrendered American prisoners of war were standing in a field with their hands clasped behind their heads. They were guarded by German paratroopers when they were fired upon with machine guns by the crews of several German tanks (R 1306, 1312, 1316, 1340, 1341; F-Exs 99, 100, 101, 102).

At about 1400 hours 19 December 1944, elements of the 2nd SS Panzer Company reached the most westerly point attained during the offensive, approximately two kilometers west of Stoumont. The machine guns of two tanks were fired into a group of approximately 15 surrendered and unarmed American prisoners of war who were standing with their hands raised above their heads. The American prisoners slumped to the ground, either dead or severely injured (R 1306, 1342; F-Exs 99, 102). At approximately the same place at a little later time, 10 unarmed and surrendered American prisoners of war were shot and killed with a machine gun and machine pistols (R 1343; F-Ex 102).

j. Wanne. On 20 or 21 December 1944, some elements of Combat Group Peiper were in Wanne, Belgium. They were units of the 1st SS Panzer Company (R 1160, 1172; F-Exs 77, 78) and the 7th SS Panzer Company (R 570, 573;

an enemy radio transmitter in Wanne and directed that all male civilians in Wanne be shot (R 1151, 1152; P-Ex 86). Pursuant to this order, a number of male civilians were taken from their homes and shot to death (R 570, 1152, 1155, 1151, 1165, 1166, 1167, 1172, ¹¹⁷⁷1100, 1162, 1163, 1165-1166, 1192, 1193; P-Exs 40, 86, 87, 88, 89, 90).

k. Luttrebois. On 31 December 1944, certain units of the 9th SS Panzer Company were in Luttrebois, Belgium. They killed at least one civilian by shooting him. The civilian had done nothing to warrant such treatment (R 1495, 1501, 1502, 1510-1512, 1524, 1528; P-Ex 122).

l. Trois Fonts. In Trois Fonts, Belgium, 10 civilians and 11 American paratroopers were shot to death (R 1087-1096).

m. Petit Thier. Accused PEIPER was in his headquarters on 10 or 13 January 1945 in a castle near Petit Thier, Belgium, when a surrendered and unarmed prisoner of war was brought to him for interrogation. The American prisoner of war was suffering from cold and exposure and was unable to speak coherently. Accused PEIPER and SICKEL ordered that the prisoner be shot to death. This order was carried out (R 1544-1546, 1547, 1554, 1555, 1561, 1569; P-Exs 125, 126, 127).

D. Evidence for Defense:

1. Offensive Plans and Orders. Knowledge of the Ardennes Offensive was disclosed to the Chief of Staff, Sixth SS Panzer Army, on 18 November 1944. The objective of the advance elements of the offensive was to penetrate to the Maas in two days, take possession of crossings in sector Luetlick-Huy, without regard to flanking movements (R 1661, 1668, 1669). The mission of Combat Group Peiper was to be considered accomplished if only one panzer reached the Maas River (R 1905).

On 25 November 1944, troops of the Sixth SS Panzer Army were given orders regarding training, though no mention of the offensive was made to them (R 1661). One of these orders contained instructions regarding the treatment of prisoners of war and was to the effect that as many prisoners of war would be taken as possible in order to gain information concerning the disposition of enemy units; that prisoners of war should not be mistreated even though they gave only their names, rank, and serial numbers; that Red Cross vehicles

by 8 December 1944 (R 1662, 1663). Orders pertaining to civilians and prisoners of war were likewise issued for the benefit of division and corps quartermasters (R 1663).

On 4 or 5 December 1944, at Bad Neuenahr, the commanding generals were instructed regarding field orders and the Army Order of the Day. On 12 or 13 December 1944 the staff groups of the divisions received their instructions. The regimental commanders were to be notified on 14 December 1944. On 16 December, the day of the offensive, the troops were to receive such notices. The above mentioned orders regarding prisoners of war were issued early so that unit commanders might begin training as early as possible (R 1664).

An Army Order of the Day was written by accused Brigadier General KRAEMER, Chief of Staff, Sixth SS Panzer Army, and was signed "Sepp Dietrich" (R 1665, 1666).

A field order signed, "Dietrich, Commander-in-Chief, Sixth SS Panzer Army," consisted of about 30 typewritten pages and contained the usual tactical information and instructions. A special order pertaining to supplies was signed by accused Brigadier General KRAEMER, Chief of Staff, Sixth SS Panzer Army. This order contained a paragraph regarding loot and prisoners of war, which were to be collected rapidly by special units attached to advance elements of corps. The collection of prisoners of war and booty was not to be one of the tasks of forward units. Prisoners of war were to be sent back to prisoner of war collecting points from where they were to be brought to prisoner of war collecting stations for interrogation (R 1665, 1670, 1671, 1672, 1720).

In addition to the Sixth Army Order of the Day, there was an order of the day issued by Army Group "B", and one by the Commander-in-Chief of the Western Front. The Army Order of the Day was an appeal to the troops to fight without sparing themselves and militarily contained nothing binding. It was short and informed the troops of the Sixth SS Panzer Army that they were confronted with a big decision, that the Fuhrer had placed them in an important position to break through the enemy front and move across the Maas. Surprise was essential, and the armored divisions were to proceed rapidly without regard to threats from the flank. The enemy was to be driven from German territory and annihilated east of the Maas. Every soldier should do his task without sparing himself

According to the testimony of accused KRAEMER, the Sixth SS Panzer Army participated in the Ardennes Offensive from 16 December 1944 to 20 January 1945 (R 1682), during which time the Army took between 5,000 and 7,000 prisoners of war. Its losses were approximately fifty percent killed (R 1687, 1688). Accused KRAEMER and witness Warning testified that the field order contained a paragraph regarding behavior of civilians who were expected to offer resistance on the west side of the Maas, and included a statement that any resistance by the civilian population was to be broken by all means (R 1688, 1689, 1721). KRAEMER further testified that neither the Army Order of the Day nor any other order contained a statement that prisoners of war were to be shot (R 1693-1697); that he first heard of the shooting of prisoners of war from his staff officers who heard it from a radio broadcast from Calais; that nothing was heard concerning the shooting of civilians (R 1686); that an investigation was ordered and the 1st SS Panzer Division returned a negative report; and that he sent out a radio message that the Commander-in-Chief forbade all conduct in violation of international law (R 1686, 1687, 1688).

Accused FRIESS, Commanding General, I SS Panzer Corps, testified that on 12 December 1944 he attended Hitler's meeting with the Commanding Generals at Bad Nauheim. Hitler made a speech in which he stated that Germany must hit back and regain the offensive, break out of the Eifel Mountains, capture Antwerp, the main supply point of the British Army, and knock out the British Army; that the best troops had been saved for this offensive; that this was Germany's last chance and it must succeed; and that the troops should not spare themselves. FRIESS also testified that the speech of Hitler contained nothing concerning prisoners of war or civilians, nothing about disregarding humane inhibitions, and nothing about the troops proceeding with brutality and a wave of terror preceding them (R 1744, 1745). This was corroborated by defense witness Engel (R 1634, 1635, 1636). Accused FRIESS further testified that on about 14 December 1944 information concerning Skorzeny's mission was obtained at the command post of the Sixth SS Panzer Army; that on 15 December 1944, at the command post of the corps at Schmidheim, a meeting was held which was attended by the commanding officers of forward units, two division commanders, Corps Chief-of-Staff, G-3, Major Meas, and Colonel Skorzeny and his officers (R 1748, 1746); and that the

Before this discussion General DIETRICH's Army Order of the Day was read. It contained nothing about prisoners of war, civilians, or the use of brutal measures. He further testified that the Army Order of the Day was sent by mail to each division; that it consisted of not quite one-half of one typewritten page; and that it contained propaganda rather than matters of a military nature (R 1747). Accused PRIESS made a speech in connection with the reading of the Army Order of the Day in which he emphasized the importance of the coming offensive but did not mention prisoners of war, civilians, or terroristic methods (R 1748).

On 15 December 1944 accused General DIETRICH visited the corps command post and at that time accused PRIESS saw the field order of the Sixth SS Panzer Army. It was the usual attack order relating to the enemy situation, including its position, troops, etc., and the mission of the Sixth SS Panzer Army. It contained nothing concerning prisoners of war, but did contain one paragraph to the effect that the operation would lead into territory occupied by hostile populations who would take part in the fight and that all resistance from armed civilians was to be broken (R 1749, 1750). There was a supply order, an appendix to the field order, regarding the collection and transportation of prisoners of war and the delineation of certain details for the collection of booty (R 1721, 1722, 1750). PRIESS further testified that after the offensive accused PEIPER made a report of experiences, attaching his regimental order which contained nothing concerning the treatment of prisoners of war (R 1754).

The testimony to the effect that neither the field orders of Army or corps, nor the Army Order of the Day, contained anything concerning the treatment of prisoners of war was corroborated by defense witnesses Engel, Divisional Commander 12th Volksgrenadier Division attached to the Sixth SS Panzer Army (R 1635-1637); Warning, Chief of Staff, LXVII Corps, attached to the Sixth SS Panzer Army (R 1719-1724); Maier, G-4, Sixth SS Panzer Army (R 1729-1731); Meyer, First General Staff Officer, 12th SS Panzer Division (R 1868-1872); Kuhlmann, Commander, 12th Panzer Regiment, 12th SS Panzer Division (R 1878-1881); and by Ziemssen, G-3, 1st SS Panzer Division (R 1775-1782).

Lehmann, Chief of Staff, I SS Panzer Corps, corroborated the testimony of accused PRIESS that the Army Order of the Day contained no reference to pris-

terror (R 1856); that before the start of the offensive an order was received from accused General KRAEMER concerning traffic regulations in the event large numbers of prisoners were taken (R 1856); that this order was signed by KRAEMER and sent to all divisions (R 1857); that at the conference at the corps command post on 15 December 1944, accused PRIESS spoke but mentioned nothing concerning prisoners of war, civilians, unusual methods of warfare, or the fact that prisoners of war were not to be taken (R 1858). He testified that an investigation of the alleged shooting of prisoners of war on 17 December 1944 was demanded by the Army (R 1859); that the Army field order contained the battle plan (R 1859); and that the name "Sopp Dietrich" appeared on private or semi-official communications (R 1866). Lehmann further testified that between 17 December 1944 and early January 1945, approximately 10 kilometers south of Honsfeld, large numbers of prisoners of war were seen, guarded by members of the 1st Panzer Pioneer Battalion, 1st SS Panzer Division (R 1860, 1861); that the question of prisoners of war was raised by a tank officer at sand table exercises of the 12th SS Panzer Division, 15 December 1944, and accused PRIESS replied that prisoners of war were to be sent back along the route of advance, "just like we did in Russia" and were to be evacuated by "people that took them" (R 1862).

Ziemssen testified that troops of the 1st SS Panzer Division received instructions concerning the proper treatment of prisoners of war by divisional order in December 1944 (R 1777); that personnel of the 1st SS Panzer Regiment were particularly well informed in this respect (R 1793); that early in December the division received from Headquarters, Sixth SS Panzer Army, a special order for interrogation centers, which contained instructions for the treatment of prisoners of war (R 1777, 1778); that this order was signed by accused KRAEMER; that after this order was received the adjutants of all units were informed of the order which provided that prisoners of war were to be speedily sent back to the division interrogating centers and, in the event large numbers of prisoners were taken, they were to be transported to collecting points in convoys (R 1778). Ziemssen further testified that no collecting points were designated by accused KRAEMER in the field order of the Sixth SS Panzer Army but were designated in the supply annex thereof (R 1778); that, during the exercises and training of the 1st SS Panzer Regiment, accused PEIPER decided that

prisoners of war would be taken care of by crews of knocked-out vehicles (R 1777); and that the I SS Panzer Corps field order, signed by PRIESS, likewise contained instructions regarding prisoners of war (R 1778, 1779). The corps conference at Schmidheim concerned Skorzeny's troops and nothing was mentioned about prisoners of war (R 1781, 1782). The division order did mention civilian resistance (R 1784). He further testified that the 1st SS Panzer Division captured more than 1000 prisoners of war between 16 and 22 December 1944; that about 800 prisoners of war were seen being moved; that on two occasions the establishment of collecting points was ordered (R 1785); that two-thirds of the 800 prisoners of war were observed between Hallschlag and Honsfeld, and one-third between Honsfeld and Ligneuville, guarded by men of the 1st SS Panzer Regiment (R 1807); and that no American dead were seen in Honsfeld or Ligneuville (R 1815).

Several conferences were held for the discussion of various phases of the campaign on 15 and 16 December 1944. Nothing was said in these conferences to the effect that prisoners of war and Belgian civilians were to be shot (R 2046, 2049, 2095, 2094, 2095, 2097, 2098, 2065, 2066, 2104, 2105-2111, 2115, 2117).

2. Incidents.

Crossroads. Lieber testified that he passed the Crossroads between 1400 and 1430 hours 17 December 1944 and, while he saw some dead Americans in the pasture, he saw no German troops or officers in the field (R 2581-2593).

La Gleize. A Catholic priest, a resident of La Gleize, stated in his extrajudicial sworn statement that he was in La Gleize from 18 to 24 December 1944. He left La Gleize on 24 December 1944, returned once during the week, and came back to stay on 30 December 1944. On 18 December 1944 at 1630 hours he left the cellar of the house where he was staying and walked along the road inside the wall surrounding the cemetery. He did not see the bodies of any American soldiers lying there. He did not see any bodies of dead American soldiers in La Gleize between 18 and 24 December. However, except for the short trip on 18 December 1944, he did not leave the house where he was staying, until 24 December. The witness examined the wall surrounding the church and cemetery and he examined the outside wall of the schoolhouse about a year after the

incidents and found no marks that might have come from automatic small arms fire (R 2822, 2823; D-Ex 32).

Another resident of La Gleize stated in his extrajudicial sworn statement that he was in La Gleize from 18 to 24 December 1944. During this time he made several trips from the house where he was staying to his own house and he did not, at any time, see any bodies of dead American soldiers. He was in the church on 22 and 23 December 1944 and saw about 15 wounded Germans and one wounded American being treated there (R 2825; D-Ex 33).

Another resident of La Gleize stated in her extrajudicial sworn statement that on 18 December 1944 she took refuge in the church. She saw three wounded American soldiers being treated. One of them died. She did not see any bodies of dead Americans in the vicinity of the church and she had no knowledge of any noncombat shooting of American soldiers (R 2826; D-Ex 34).

A fourth resident of La Gleize stated in his extrajudicial sworn statement that he was in La Gleize on 18 December 1944. Part of the time he took refuge in the church. He did not know of any Americans shot other than in combat. He stated that, if any Americans had been shot at the wall surrounding the church and cemetery, he would have known about it (R 2827, 2828; D-Ex 35).

Gutmann testified that during the Ardennes Offensive he was a member of the 2nd Panzer Company, 1st SS Panzer Regiment. There were no German wounded in La Gleize but he saw Americans and American medics. When the Americans re-entered La Gleize on 24 December 1944, he saw American wounded turned over to the Americans (R 2759, 2760).

Buchmann testified that he arrived in La Gleize on 18 December 1944 between 1400 and 1500 hours. He stopped his troop carrier near the wall of the cemetery which was some ten meters from the church. The vehicle was parked in front of the gate and remained there for about one hour. Buchmann remained in the vehicle, except when he took shelter during an air attack (R 2832). There were about 10 other troop carriers parked there. During the period he was parked near the cemetery wall he did not see any American soldiers or any dead bodies. He left about 1600 hours and drove in the direction of Cheneux on the road between La Gleize and Cheneux. He did not see any American soldiers or bodies along the road. He did not drive all the way into Cheneux but stopped about four kilo-

meters from La Gleize (R 2833). He returned to La Gleize in the early morning of the 19th of December 1944 and left La Gleize about noon in the direction of Stoumont. On this occasion he remained in La Gleize for about four hours and during this period he did not see any American soldiers. At this time he stopped in the center of the village on the main road and saw no American soldiers. Between 1500 and 1600 hours on that day he left La Gleize in the direction of Stoumont and returned to La Gleize on 21 December 1944 about 1500 hours. He went through the village to the crossroads of Spa and spent the night in a house there. The village was not under attack by Americans at that time (R 2834). He remained there until the breakout at 0200 hours, 24 December 1944. During this period the village was under American artillery fire. It commenced during the night of 21-22 December 1944 and continued up to the breakout. During this time he saw no American soldiers or bodies lying around in La Gleize (R 2835). This testimony concerning the absence of dead bodies of American soldiers in La Gleize was corroborated by the testimony of Willicke (R 2836-2838), Flohmann (R 2878, 2879), Ostocke (R 2847-2849), Wagner (R 2843-2847), Koessner (R 2839-2843), and Ehrhardt (R 2898-2902).

Koerner testified to the fact that no shooting of American prisoners of war occurred in La Gleize or vicinity during the period 18-20 December 1944 (R 2903, 2904).

Grafmoller testified that he was in La Gleize on 22 December 1944 and he did not see any dead American soldiers (R 2850, 2853).

Zitzelsberg testified that on 19 December 1944 he arrived in La Gleize and remained there until the evening of 23 December 1944. He was a member of the 1st Panzer Company, 1st SS Panzer Regiment. Zitzelsberg knew nothing about the shooting of prisoners of war by members of the 1st Panzer Company. During his stay in La Gleize he knew of the execution in La Gleize of a man from Combat Group Peiper who had prepared to desert by taking off his sleeve and collar insignia (R 2884-2885). Zitzelsberg passed the church in La Gleize about 2300 hours 23 December 1944, but he saw no dead bodies in the vicinity thereof. He passed a school house in La Gleize and did not see any bodies of American soldiers there. He did not go over the entire area around the school house at the time but only went into the hall (R 2888).

at about 0500 hours 19 December 1944 from the direction of La Gleize
(R 2728). At the time he was with the 2nd Panzer Company. They stopped
300 meters outside on the road to Steumont and stayed there for several
hours. When the column continued on, he passed the church. He looked to
the left and saw the first house, but he did not see bodies of American
soldiers in the vicinity of this house (R 2729-2735). This testimony was
corroborated by the testimony of Maurer (R 2741-2750).

A. Applicable Law and Procedure:

By a Joint Chiefs of Staff Directive (State, War and Navy) issued in the summer of 1945, the Commanding General, US Forces, European Theater of Operations, (the title of the Command was later changed to US Forces, European Theater, and is now European Command) was authorized and directed to proceed with the trial of war criminals utilizing appropriate military courts. It was further directed that such courts should be separate from the courts trying offenses against the occupation and that such courts should, to the greatest practicable extent, adopt "fair, simple and expeditious procedures designed to accomplish substantial justice without technicality". The propriety of instructions of this character by the executive branch of the government was recognized in the case of *In re Yamashita*, 66 Supreme Court Reporter 340. The Court therein stated in pertinent part as follows:

" In *Ex parte Quirin*, 317 U. S. 1, we had occasion to consider at length the sources and nature of the authority to create military commissions for the trial of enemy combatants for offenses against the law of war. We there pointed out that Congress, in the exercise of the power conferred upon it by Article I, Section 8, Cl. 10 of the Constitution to 'define and punish *** Offenses against the Law of Nations ***', of which the law of war is a part, had by the Articles of War (10 U.S.C. Sections 1471-1693) recognized the 'military commission' appointed by military command, as it had previously existed in United States Army practice, as an appropriate tribunal for the trial and punishment of offenses against the law of war. Article 15 declares that 'the provisions of these articles conferring jurisdiction upon courts martial shall not be construed as depriving military commissions *** or other military tribunals of concurrent jurisdiction in respect of offenders or offenses that by statute or by the law of war may be triable by such military commissions *** or other military tribunals. ***'

" We further pointed out that Congress, by sanctioning trial of enemy combatants for violations of the law of war by military commission, had not attempted to codify the law of war or to mark its precise boundaries. Instead, by Article 15 it had incorporated, by reference, as within the preexisting jurisdiction of military commissions created by appropriate military command, all offenses which are defined as such by the law of war, and which may constitutionally be included within that jurisdiction. It thus adopted the system of military common law applied by military tribunals so far as it should be recognized and deemed applicable by the courts, and as further defined and supplemented by the Hague Convention, to which the United States and the Axis powers were parties."

There follows some pertinent quotations from Title 5, "Legal and Penal Administration" of "Military Government Regulations", published by Headquarters, US Forces, European Theater, 30 November 1945, hereinafter referred to as "Title 5":

"The purpose of proceedings in Military Government Courts and of the principal enactments enforced by them is the protection of the U.S. Forces in occupation and the advancement of the political, military and administrative objectives declared by the Control Council and the Theater Commander. All enactments will therefore be interpreted broadly and in accordance with their obvious intention. Proceedings will be conducted with a view to the attainment of this purpose to the fullest possible extent. Technical and legalistic view points will not be allowed to interfere with such a result" (Section 5-350).

"The procedure for the trial of cases laid down in these rules may be modified to the extent that certain steps in the trial may be omitted or abbreviated so long as no rights granted to the accused are disregarded. Opening statements in particular may frequently be omitted. No greater formality than is consistent with a complete and fair hearing under these rules is desirable and the introduction of procedural formalities from the Manual of Courts Martial or from trial guides based thereon is discouraged except where specifically required by these rules" (Section 5-352).

"The rules of evidence as known in British and American courts (or as set forth in the Manual for Courts Martial) do not apply to proceedings before Military Government Courts. The only positive rules binding upon them are those set forth in MGR 5-329. Hearsay evidence is admissible, but when an issue is important and contravened, every effort will be made to obtain the direct testimony of witnesses. Generally, the best evidence available will be required, and all evidence which will aid in determining the truth will be admitted" (Section 5-354.4).

"Evidence shall be admitted in accordance with (sic) the following rules:

- a. 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.
- b. The court shall in general require the production of the best evidence available.
- c. 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" (Section 5-329).

"The proceedings shall not be invalidated, nor any finding 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" (Section 5-338).

Title 5 was in effect at the time of the trial and superseded "Technical Manual for Legal and Prison Officers," Second Edition, published by Supreme Headquarters, Allied Expeditionary Force, which latter regulations are sometimes referred to in the record of trial and in the Petition for Review by the defense.

A special outline of procedure issued by the Theater Judge Advocate, US Forces, European Theater, undated but actually issued about August 1945, entitled "Outline of Procedure for Trial of Certain War Criminals by General and Intermediate Military Government Courts", hereinafter referred to as the

"Trial Manual", provides in part as follows:

"To admit in evidence a confession of the accused, it need not be shown such confession was voluntarily made and the Court may exclude it as worthless or admit it and give it such weight as in its opinion it may deserve after considering the facts and circumstances of its execution ****" (par. 7e, pp. 4, 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 elects 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" (p. 12).

The accused in this case were charged with violating international law, i. e., the laws of war. It follows that the applicable law is international law and not British and American municipal or domestic criminal law. Likewise, the rules of procedure and evidence applicable in British and American municipal criminal proceedings are not applicable.

An examination of Annex I to Volume I, "Law Reports of Trials of War Criminals," hereinafter referred to as "Law Reports," by the United Nations War Crimes Commission, hereinafter referred to as the "Commission", indicates that the procedural and evidentiary rules prescribed by the Royal Warrant, 14 June 1945, are not essentially different from those followed by the Court in this case. The Commission stated in that annex that the Commonwealth of Australia and the Dominion of Canada have adopted similar regulations for war crimes trials.

Regulation 8 (1) of the Royal Warrant, supra, provides:

" **** the court may take into consideration any oral statement or any document appearing on the face of it to be authentic, provided the statement or document appears to the Court to be of assistance in proving or disproving the charge, notwithstanding that such statement or document would not be admissible as evidence in proceedings before a Field General Court-Martial" (Law Reports, Vol. I, p. 86).

As indicated by the record of trial and the Petition for Review by the defense, most of the legal issues raised during the trial stem from a failure to concede the effect of the principles above set forth. On the contrary, the defense endeavored to have the rules obtaining in American municipal criminal law trials applied.

B. Jurisdiction:

On behalf of certain named accused the defense objected to that portion of the dossier in which it was stated that the prosecution expected to prove that

they participated in wrongful killings, etc., of Allied civilian nationals.

(The defense referred to the dossier as "Bill of Particulars" most of the time throughout the record of trial and the Petition for Review). By the same motion the defense moved to quash that portion of the charge and particulars alleging that the same accused participated in wrongful killings, etc., of Allied civilian nationals and asked that the charge and particulars be dismissed as to them. By a second motion the defense moved to quash that portion of the charge and particulars alleging that certain other named accused participated in wrongful killings, etc., of Allied civilian nationals and in effect asked that the portion of the dossier stating that the prosecution expected to prove that the named accused participated in wrongful killings, etc., of Allied civilian nationals be stricken. Each motion was based on two grounds, viz., (1) that the court did not have jurisdiction because the offense alleged was committed within the territorial jurisdiction of another Allied nation and outside the US Zone of Occupation, Germany, and (2) that the Court did not have jurisdiction because the civilian victims were non-American nationals (R 7-18; Petition for Review pp. 8, 9).

The Commission in its notes on the Almelo case, tried by the British Army of the Rhine, November 1946, stated that the Royal Warrant, 14 June 1945, pursuant to which the case was tried, specifically granted jurisdiction, irrespective of whether the war crime for which the individuals were tried was committed within or without the limits of the command convening the court. It also pointed out that the jurisdiction could be based upon the principle of universality of jurisdiction over war crimes and stated that:

" *** every independent state has in International Law jurisdiction to punish pirates and war criminals in its custody regardless of the nationality of the victim or the place where the offense was committed ***" (Law Reports, Vol. I, pp. 41, 42).

That neither the place where the crime was committed nor the nationalities of the victims is an impediment to the jurisdiction of the Court is supported by recent cases (United States v. Klein, et al., opinion DJAWC, February 1946, commonly known as the Hadamar Murder Factory case; United States v. Weiss, et al., opinion DJAWC, March 1946, commonly known as the Dachau Concentration Camp Case; United States v. Becker, et al., opinion DAWC, May 1947, commonly known as the Flensburg Concentration Camp case; United States v. Haupt, opinion

C. Geneva (Prisoners of War) Convention of 27 July 1929:

The defense asserted that the accused as prisoners of war were, by virtue of the Geneva (Prisoners of War) Convention of 27 July 1929, entitled to be tried by the same courts and under the same procedure as in the case of members of the armed forces of the capturing power (R 29, 30). This objection was properly overruled (R 31). By its Petition for Review, the defense made various general assertions as to violations of that Convention during the period of detention and trial (pp. 16, 22-26). Only honorable prisoners of war may assert rights under that Convention (Mauthausen Concentration Camp Case, supra; United States v. Stroop, et al., opinion DJAWC, September 1947; and In re Yamashita, supra). Wheaton states that:

"If men are taken prisoners in the act of committing, or who had committed, violation of international law, they are not properly entitled to the privileges and treatment accorded to honorable prisoners of war" (Wheaton's "International Law," Vol. 2, Seventh Edition, p. 180).

It is of interest to note that Mr. Justice Jackson in his report to the President, 7 June 1945, stated in part as follows:

"I asked the War Department to deny those prisoners who are suspected war criminals the privileges which would appertain to their rank if they were merely prisoners of war; to assemble them at convenient and secure locations for interrogation by our staff; to deny them access to the press; and to hold them in the close confinement ordinarily given suspected criminals."

D. Severance:

The defense moved for a severance of the accused as defendants stating as grounds therefor (1) that certain of the accused would be antagonistic to others; (2) that conflicts of interests between accused would be inevitable; (3) that various accused would attempt to shift culpability and cast burdens on other accused; and (4) that the trial of such a large number of accused, of widely different levels of military authority, would lead to confusion (R 73, 74).

All the accused were charged with participating in the common plan. Under these circumstances the Court did not abuse its discretion in denying the motion for severance (R 79). Severance is not a right or a privilege of accused. The applicable rule is that such a motion is addressed to the sound discretion of the Court. Under the procedure applicable to the trial of war crimes, the test

substantial rights of accused would be violated, if the motion were overruled, because accused have no right in this connection (Mauthausen and Flossenburg Concentration Camp cases, supra).

In this connection it is of interest to note that Section 5-357 of Title 5, supra, provides as follows:

"Accused persons will normally be tried separately, except that where one or more persons are charged with an offense arising out of the same facts or where it is charged that they had conspired together or engaged in a common enterprise they may be tried jointly."

The Commission in its notes on the British Almelo case, supra, pointed out that Regulation 8 (ii) of the Royal Warrant, 14 June 1945, to the British Army of the Rhine, as amended by the Royal Warrant, 4 August 1945, provides that:

"Where there is evidence that a war crime has been the result of concerted action upon the part of a unit or group of men, then evidence given upon any charge relating to that crime against any member of such unit or group may be received as prima facie evidence of the responsibility of each member of that unit or group for that crime. In any such case all or any members of any such unit or group may be charged and tried jointly in respect of any such war crime and no application by any of them to be tried separately shall be allowed by the Court" (Law Reports, Vol. 1, p. 43).

Thus, it is seen that in British war crimes trials it is mandatory that motions for severance in cases like the one here involved be overruled.

E. Dossier.

During the trial the defense made various attacks upon the dossier, which the defense as heretofore stated often referred to as "Bill of Particulars" (R 7, 11). Among other things the defense moved the dossier be made more definite and certain (R 79). This motion was properly overruled by the Court (R 90). From the argument by the defense in support of the motion, it appears that it may have been seeking a ruling from the Court that the prosecution be limited in its proof to the dossier (R 87). The then existing procedure provided, among other things as to the duties of the prosecutor, that he should:

"**** see that the court receives a dossier of the case against the accused, such dossier to contain a copy or summary of all documentary and written evidence and a summary of the testimony to be given by the witnesses for the prosecution ****" (Trial Manual, par. 4, pp. 2, 3).

The dossier was prepared for the benefit of the Court and in no sense can it be considered a part of the pleadings. It appears that the Chief Prosecutor

delivered a copy thereof to the defense as a gratuity and in an effort to be co-operative.

It does not appear that the defense attempted to attack the pleadings, i.e., the charge and particulars. However, if it intended to do so, there is no doubt as to the sufficiency of the charge and particulars. They allege that the accused participated in the common plan with the particularity required by the prescribed procedure (Section 5-323, Title 5, supra; and the Mauthausen and Flossenburg Concentration Camp cases, supra). As pointed out by the Supreme Court of the United States in the Yamashita case, supra:

"Obviously charges of violations of the law of war triable before a military tribunal need not be stated with the precision of a common law indictment."

The Court cited *Collins v. McDonald*, 258 U.S. 420, 42 S. Ct. 328, 66 L.Ed. 692.

F. Evidence:

1. Procurement of Extrajudicial Sworn Statements. In its opening statement the prosecution stated that tricks, ruses, stratagems, stool-pigeons, and ceremonies were utilized in procuring many of the extrajudicial sworn statements of accused and witnesses (R 97-100). Also, in nearly all instances the prosecution, as an incident of the introduction of an extrajudicial sworn statement, placed the individual or individuals who procured the same on the stand and disclosed the methods used in the pretrial interrogation (e.g., see R 171-173, 641-643, 673-678, 696-704, 1011-1015). The defense contended throughout the trial and in its Petition for Review that the various extrajudicial sworn statements were not admissible because they were procured as a result of trickery, threats of violence, and other methods of coercion and duress (R 1616, 1618-1620). The defense introduced evidence indicating that violence or threats of violence were used to obtain extrajudicial sworn statements from accused KRAEMER, PEIPER, CHRIST, HENNECKE, TOMHARDT, SIEVERS and MOTZHEIM (R 1677, 1678, 1893, 2045, 2135, 2136, 2145, 2156, 2204, 2205, 2229-2233, 2350-2354, 2438-2441, 2445). It also introduced similar evidence as to interrogations of witnesses Trott and Agather (R 2274-2284, 2764-2766). On rebuttal the prosecution called to the stand the members of the U.S. Army or War Department civilian employees, who procured such extrajudicial sworn

statements. In each instance they denied the assertions of the accused and witnesses (R 1002, 1012-1014, 2931-2937, 2939-2943, 2953-2956, 2966). The evidence throwing light on these assertions is considered at length under the evidence for and against each accused in Section VI, post.

The rules of evidence recognized in British and American municipal criminal law trials were not applicable to this trial of war criminals for violation of international law. However, concerning methods used in procuring confessions, it is stated in American Jurisprudence:

"In a majority of the jurisdictions a confession is presumed to be, or is regarded as prima facie, voluntary and, hence, if not objected to by the defendant, should be admitted in evidence by the court, unless there is something in the confession which indicates its inadmissibility. Other courts declare that a confession offered in evidence is prima facie or presumptively involuntary. Upon the question of the burden of proving that a confession is involuntary, there is a similar difference of opinion due in part, but not entirely, to this difference regarding the presumption of voluntariness. According to some decisions, if the person making the confession objects that it is not voluntary, he is called upon to show at least enough evidence to rebut any presumption of voluntariness which may attach before the prosecution proceeds with its proof, unless the confession on its face appears to be involuntary, in which case the burden is on the prosecution to show that it was voluntary. In other jurisdictions the prosecution is required to show by evidence the voluntariness of the confession if the defendant objects to its competency when offered in evidence, particularly when it appears that the confession was made to a person in authority" (20 American Jurisprudence 456).

"The general rule is that the use of artifice, trickery, or fraud in inducing a confession will not alone render the confession inadmissible as evidence, although the courts admitting such testimony have often condemned the practice of obtaining confessions in this manner. Confessions procured by trickery are basically different from those induced by duress or promises, for when one is tricked into making incriminating statements, there is no temptation to admit falsehoods in order to ward off a threatened danger or to obtain a promised reward. Artifice or deception does not render a confession inadmissible, although it consists in a pretension of possessing evidence against the accused or of being a fellow criminal, in a simulation of friendship for the accused, in leading the accused to believe that a companion in crime has made statements implicating the accused, in eavesdropping, in opening letters written by him, or in procuring his intoxication.

"It is essential to note that while artifice and deception will not in themselves render a confession involuntary, if there are combined with the deception any inducements which excite hope of benefit from the making of the confession or fear of consequences if he does not make such confession, the confession is involuntary. It is held, however, that statements made to one pretending to be an attorney in order to procure a confession are not admissible, on the ground of the privileged relationship existing between attorney and client" (20 American Jurisprudence 444, 445).

"There is a difference of opinion as to whether the question of the voluntariness of a confession is one addressed solely to the court, as a matter entirely of the admissibility of evidence, or whether the question is ultimately to be decided by the jury when the evidence in that regard is conflicting. In a number of jurisdictions the rule prevails that the question whether a confession is voluntary so as to justify its admission in evidence is a matter solely of the admissibility of the evidence and is addressed solely to the court. If the court decides a confession is voluntary, it receives it; otherwise, it rejects it. In some jurisdictions, under this rule, the jury may hear the evidence in regard to the circumstances under which the confession was obtained, if the court admits it, but only for the purpose of determining whether the defendant made the confession and whether the matter asserted therein is the truth. The jury may determine the weight to be given a confession, but it may not reject it as evidence if it believes it to be true, even though it may believe that it was not voluntarily made. In other jurisdictions, however, where the evidence on the question of voluntariness is conflicting or where the court is in doubt as to whether the confession was or was not voluntary, the issue may be left to the jury under instructions to disregard the confession unless it finds that it was made voluntarily. In other words, the court may admit evidence of a confession, although it is not satisfied that it was voluntarily made, and instruct the jury to disregard it if, upon all the evidence, it believes it was involuntary, although there is authority in some of these jurisdictions for the view that it is error to submit the question to the jury where it clearly appears that the confession was involuntary. In still other jurisdictions courts have failed to enunciate a clear-cut ruling upon this point, preferring to let each case set its own pattern in this respect" (20 American Jurisprudence 453, 454).

In *United States v. Stroop, et al.*, supra, the defense moved to strike a number of exhibits on the ground that the prosecution had failed to establish that they were voluntary. It was stated therein:

"The regulations in connection with the trial of war crimes cases by Military Government Courts in this Theater have never required such foundation evidence. In this connection it is of interest to note that Regulation 5 d (7) of the SCAP Regulations, supplemented by Rules of Procedure and Outline of Procedure for Trial of Accused War Criminals, issued by Headquarters, United States Eighth Army, 5 February 1946, and amended by a letter of General MacArthur, 27 December 1946, provides that all confessions or statements of accused shall be admissible in evidence without any showing that they were voluntarily made, and, further, that, if it is shown that they were procured by means which the commission believes to have been of such character that the accused may have been caused to make a false statement, the commission may strike out or disregard any portion thereof as was so procured. While probably not binding on the Court in the trial of this case, the "Manual for Trial of War Crimes and Related Cases", 15 July 1946, as amended 1 February 1947, provides by subparagraph c (4). Section 270, that war crimes tribunals will not require foundation evidence to establish that sworn statements offered in evidence were voluntarily procured, but on the other hand will presume subject to being rebutted by competent evidence that the sworn statements were voluntarily made."

The evidence is directly conflicting as to whether any of the extrajudicial sworn statements or confessions were obtained as a result of personal violence, threats thereof, or duress. In many jurisdictions in the United States the

question of voluntariness of the extrajudicial sworn statements or confessions would have been submitted to the jury for its determination in light of the evidence bearing thereon. In this war crimes trial the voluntariness was of necessity a problem for the Court. It does not appear that it failed to properly consider all the evidence bearing upon whether the extrajudicial sworn statements or confessions were voluntary and whether they were made under circumstances which might have induced the accused and certain witnesses to state untruths. Moreover, it does not appear that they assigned inappropriate probative value thereto.

The court did not err in admitting the extrajudicial sworn statements or confessions in evidence or in considering them for such probative value as they might have.

2. Extrajudicial Sworn Statements Against Co-Accused. At various times during the trial the defense objected to the admission of extrajudicial sworn statements or confessions by accused as evidence against co-accused (R 113). The defense also contended by its Petition for Review that the admission thereof was improper (pp. 25-27). At one stage of the trial the defense moved to strike all such exhibits from the record citing as one of its grounds in support of the motion the contention that their use against co-accused was improper (R 1616, 1620). The defense conceded that no grounds for the motion would exist, if the accused were not entitled to the privileges of honorable prisoners of war at the time the extrajudicial sworn statements or confessions were procured (R 1620). That motion was properly denied by the Court (R 1626).

Section 5-329, Title 5, supra, provides that a Military Government Court shall 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." The Trial Manual, supra, which relates solely to war crimes trials, provides that such courts shall admit evidence of any type "which in the opinion of the court is of probative value, and may exclude any evidence which in its opinion is of no value as proof." It further specifically recognized as admissible extrajudicial sworn or unsworn statements and hearsay evidence (par. 7, p. 8).

The extrajudicial confession of one accused is admissible in British and American municipal criminal law courts. However, such confessions made out of court are admissible only as against the maker. Their admission constitutes an exception to the hearsay rule (par. 114, "Manual for Courts-Martial, U.S. Army", 1928). The fact that the basis for the admissibility of an extrajudicial sworn statement of one accused against other accused is simply an application of the hearsay rule is demonstrated by the fact that in Anglo-American municipal criminal law procedure one accused may testify in court against his co-accused.

Thus, it is clear that an extrajudicial sworn statement or confession by one accused may be admitted in evidence by a Military Government Court against all accused to the same extent as any other hearsay evidence. This rule has been consistently followed in war crimes cases. The ^{/former} Deputy Theater Judge Advocate for War Crimes expressed a like opinion by letter 10 November 1945.

3. Unsworn Testimony of Accused. The defense objected to the admission of an extrajudicial sworn statement on the ground that it would place the defense at an extreme disadvantage inasmuch as under the applicable procedure the accused could not testify under oath. In support of its position the defense urged that to admit the exhibit would (1) permit the prosecution to do by indirection what neither the prosecution nor defense could do directly, i.e., place the accused under oath on the stand, and (2) to combat the extrajudicial sworn statement the defense would be limited to the unsworn testimony of the accused, which is of lower probative value (R 112, 113). This objection was properly overruled by the Court (R 118, 119). Later the defense sought a blanket ruling from the Court as to any such extrajudicial sworn statements of accused later offered by the prosecution. The blanket ruling was denied by the Court. The defense was informed that it would be given an opportunity to make like objections to such sworn pretrial statements of accused on an individual basis when they were introduced (R 130). The defense contended by its Petition for Review that the Court erred in overruling these objections (pp. 31-35).

Under the applicable procedure the accused were not permitted to testify under oath (Section 5-327.5, Title 5, supra; and p. 14, Trial Manual, supra). In view of that fact and the principles set forth in paragraph 2, above, concerning the admissibility of extrajudicial sworn statements, it is clear that the Court did not err in overruling the objections by the defense. In any event, it is not apparent that the position of defense was well founded, i.e., that an accused's unsworn testimony in Court is of sufficiently lower probative value as to place the defense at a material disadvantage. In several continental countries accused are not permitted to testify under oath.

4. Unavailability of Witness for Rebuttal. During the interrogation of a witness the defense objected to a line of questioning relative to statements made by a lieutenant at a meeting on 16 December 1944, immediately preceding the offensive, inasmuch as the lieutenant was not an accused and was not available to the defense for use in rebuttal. The objection was properly overruled (R 333). The rules concerning the admission of hearsay evidence discussed in paragraph 2, above, demonstrate that there is no limitation on the admissibility of hearsay evidence and that any evidence is admissible that in the opinion of the Court has probative value. The Court might well have believed that what was said by the lieutenant at a meeting immediately preceding the offensive would throw light upon the common plan. A British war crimes tribunal made a similar ruling in the Peleus case, tried by the British Army of the Rhine, October 1945 (Law Reports, Vol. 1, p. 14).

5. Opportunity to Examine Extrajudicial Sworn Statements. As an incident to objecting to the admission of an extrajudicial sworn statement, the defense made a general objection to the introduction of the German text of such statements without the defense having received and been afforded an opportunity to read the English translation thereof in advance (R 112, 117). The Court ruled that the prosecution would not be required to furnish the defense either copies or translations of such statements in advance of offering the same in evidence (R 118). The question was not covered by

prescribed procedure, but there is no indication that the Court abused its discretion.

It appears that sometime in advance of the trial the prosecution on its own initiative delivered copies, in both German and English, of most of the extrajudicial sworn statements of accused which it anticipated offering in evidence. (See affidavit by Lieutenant Colonel Ellis, Chief Prosecutor, 12 November 1947, attached to and bound with the record of trial).

6. Best Evidence Rule. The defense made various objections to evidence and motions to strike evidence on the ground that to admit the same or permit it to remain in evidence would be in violation of the best evidence rule (R 459, 499, 852, 1189). In each instance rulings were made by the Court against the defense (R 460, 501, 853, 1190). The defense contended that the Court erred in such rulings (Petition for Review, pp. 69, 70). The rulings of the Court were correct. Section 5-354.4, Title 5, supra, provides that generally the "*** best evidence will be required, and all evidence which will aid in determining the truth will be admitted" (underscoring supplied). The Trial Manual, supra, states that any evidence is admissible which in the opinion of the Court is of "probative value" (par. 7, p. 8). It does not follow that the procedure, requiring that "the best evidence available" will be required, prescribes adherence to the "best evidence rule". The latter is definitely not applicable.

Similarly, the best evidence rule is not considered applicable in British war crimes trials (Dreierwalde case, tried by British Army of the Rhine, March 1946, Law Reports, Vol. I, p. 85).

7. Uncorroborated Confessions. In its closing argument the defense stressed that the conviction of an accused could not be based solely on an uncorroborated confession and cited considerable American authorities concerning municipal criminal law in support of its position (R 3100, 3107-3110). This rule of American municipal criminal law is not applicable as such to war crimes trials. However, it is true that in most

courts in the United States possessing criminal jurisdiction an uncorroborated extrajudicial confession will not support a conviction. The confession must have some corroboration, i.e., there must be some proof of the corpus delicti by evidence entirely independent and exclusive of the confession. However, sufficient proof to convict exists when the corpus delicti is established by other evidence and the confession taken together (20 American Jurisprudence 1094; Underhill's "Criminal Evidence", Fourth Edition, p. 43).

The defense contended by its Petition for Review, page 30, that 14 named accused were "convicted upon uncorroborated confessions alone." It is sufficient answer to the contentions as to both law and fact that an examination of the record of trial, as indicated in Section VI, post, discloses that the conviction of none of the accused in this case is bottomed solely on the uncorroborated confession of the accused, with the possible exception of ^{the conviction of} accused ECKMANN.

While it is not necessary to apply principles of American municipal criminal law and require corroboration, it is considered that good administration of justice in war crimes trials requires, in the absence of most compelling and persuasive evidence, that similar principles be applied. Such compelling and persuasive evidence is lacking as to accused ECKMANN and appropriate recommendation is made as to this accused in Section VI, post.

G. Motion for Findings of Not Guilty: At the close of the prosecution's case, the defense moved that findings of not guilty be made as to all the accused for the reason that the prosecution had failed to establish a prima facie case (R 1580). The defense also made several separate motions for findings of not guilty as to individual accused (R 1597-1609).

It is not error for a war crimes tribunal to overrule a motion for findings of not guilty made at the close of the case for the prosecution, if it believes there is sufficient evidence to support the charge and that the accused should be required to answer it (Section 5-327.2, Title 5, supra). In view of the evidence submitted by the prosecution, the

court did not err in requiring the defense to answer; the motion was properly overruled (R 1615, 1616). A similar practice is followed in courts-martial (par. 71, d, "Manual for Courts-Martial, U. S. Army", 1928).

H. Superior Orders:

In its closing argument the defense laid great stress upon superior orders (R 3100-3106). The same is true as to its Petition for Review (pp. 41-47). The defense contended that at the time the common plan was carried into execution both the British and American governments had adopted a "rule of absolute non-liability" as to violations of the laws of war committed pursuant to an order of the belligerent government or an individual belligerent commander and that the superior orders relied upon by the accused was an absolute defense to the charge. At the same time the defense concedes that by the decisions of British and American municipal criminal law courts from the "earliest cases until 1941" obedience to superior orders was not a defense in prosecutions for criminal acts.

Until April 1944 Chapter XIV of the British "Manual of Military Law" stated that those who commit violations of rules of warfare at the direction of their government or their commander are not war criminals (Law Reports, Vol. I, p. 18). Similarly, FM 27410, War Department, U. S. Army, "Rules of Land Warfare", 1 October 1940, provided by paragraph 347, until 15 November 1944, that individuals who commit violations of the laws of war under the orders or sanction of their government or commanders would not be punished for such offenses. Paragraph 347 of those regulations was amended and paragraph 345.1 was added by Change No. 1, 15 November 1944. Said paragraph 345.1 provides as follows:

"Individuals and organizations who violate the accepted laws and customs of war may be punished therefor. However, the fact that the acts complained of were done pursuant to order of a superior or government sanction may be taken into consideration in determining culpability, either by way of defense or in mitigation of punishment. The person giving such orders may also be punished."

The provisions of the British and American manuals in this connection are merely attempts at statements of the law and in so far as the

statements are inaccurate they are of no weight. The so-called "non-liability" provisions of the British and American manuals were removed prior to the events forming the basis of the charge. As to the significance of the provisions of those manuals the Commission has stated:

"Neither the British Manual of Military Law nor the United States Basic Field Manual are legislative instruments; both were published only for informative purposes, and if a certain statement, contained in both, was, as is stated in the footnote to the British Amendment No. 34, 'inconsistent with the view of most writers upon the subject and also with the decision of the German Supreme Court in the case of the "Llandoverly Castle," there was no obstacle, constitutional, legal, or otherwise, in the way of correcting the mistake in the statement of law on the one hand, and proceeding on the basis of the law as it thus had been elucidated on the other.'" (Law Reports, Vol. I, p. 32).

Concerning the provisions now contained in paragraph 345.1 of the American FM 27-10, above quoted, this office has stated:

"Defense counsel contended that on the date of the killing, the defense of superior orders was a complete and valid defense in both the American and German armies (FM 27-10, Paragraph 347, Page 87). Said provisions merely constituted a temporary self imposed policy of the United States concerning the imposition of punishment for violations of the laws and usages of war under the conditions therein contemplated and in no way altered the existing law of nations. Moreover, by this expression of policy which permitted of a very lenient administration and enforcement of the laws of war, the United States could not be said to have attempted to abrogate valid and existing provisions of international law then obtaining. The expressed policy of the United States has since been changed as indicated by FM 27-10, War Department, U. S. Army, "Rules of Land Warfare", Paragraph 345.1, Change No. 1" (United States v. Curdts, opinion DJAWC, April 1947).

Compliance with superior orders does not constitute a defense to the charge of having committed a war crime (Trial of Henry Wirz, 40th Congress, 2nd Sess., House of Representatives, Ex. Doc. No. 23, p. 812; Vol II, Sixth Edition, Oppenheim, "International Law", par. 253, p. 453; Llandoverly Castle Case, 16 American Journal of International Law, p. 708; United States v. Thomas, opinion DJAWC, December 1945; Hadamar Murder Factory case, supra; French Republic v. Wagner, et al., Court of Appeals, July 1946; and International Military Tribunal, Nuremberg, Vol. I, p. 224). This rule is followed in Anglo-American jurisprudence (Mitchell v. Harmony, 13 How. 115; and par. 148 "Manual for Courts-Martial", supra).

Compliance with superior orders may, under certain circumstances, be considered in mitigation of punishment. However, an accused who seeks relief on such grounds assumes the burden of establishing (a) that he

received an order from a superior directing that he commit the wrongful act; (b) that he did not know or, as a reasonably prudent person, would not have known that the act which he was directed to perform was illegal or contrary to universally accepted standards of human conduct; and (c) that he acted, at least to some extent, under immediate compulsion. Having satisfactorily established these elements, the amount to which his sentence should be mitigated depends upon the character and extent of the immediate compulsion under which he acted. (See London Agreement of 8 August 1945, Concerning Prosecution and Punishment of Major War Criminals of the European Axis; FM 27-10, "Rules of Land Warfare", par. 345.1, supra; Oppenheim, "International Law", supra, and the Llandovery Castle case cited therein; "Manual for Courts-Martial", supra; "Report to the President of United States", 7 June 1945, by Mr. Justice Jackson; Extract from Goebbels' "The Air Terror of Our Enemies", found in footnote, p. 53, "Military Occupation and the Rule of the Law", by Ernst Fraenkel; United States v. Fury, et al., opinion DJAWC, September 1945; United States v. Thomas, supra; and United States v. Beck, et al., opinion DJAWC, December 1946).

Prior to the late war, soldiers have not in modern times been called upon to apply terrorism, including the killing of inactive civilians and surrendered soldiers, to suppress all opposition. Surrendered soldiers have obviously been deprived of potential means of continuing as opponents of the capturing forces. Even a soldier possessing the most rudimentary intelligence cannot be heard to say that he thought a command to apply such terrorism was a lawful command and that he did not realize that such terrorism is contrary to universally accepted standards of human conduct. However, youth, when coupled with mental immaturity and narrow experience, may be an important factor for consideration in mitigation.

1. Power of Review:

Without assigning any reasons therefor the defense expressed doubt in its Petition for Review as to the power of the Commander-in-Chief, European Command, to act as reviewing authority in this case (p. 1). The Court

which tried the case was appointed by the Commanding General, Third US Army. The letter by Headquarters, US Forces, European Theater, AG 000.5 JAG-AGO, subject: "Trial of War Crimes Cases," 14 October 1946, and the letters superseded thereby bearing the same subject, 26 June 1946 and 11 July 1946, are the same in all pertinent respects. By those letters the authority vested in the Commanding General, Third US Army, in connection with all war crimes trials and activities was revoked, and it was provided therein that the Commanding General, US Forces, European Theater, would act as the reviewing authority. Since the issuance of those letters the Third US Army has been inactivated. There can be no doubt as to the power or propriety of the Commander-in-Chief, European Command, acting as the reviewing authority in this case. In this connection reference is made to the authorities discussed at the outset of this Section.

J. Conduct of Trial:

The accused were represented by competent American and German counsel. One member of the Court was a legally trained officer. Sufficient interpreters were provided at all times. A right of cross-examination was extended throughout the trial. All accused were given an opportunity to testify in their own behalf and some of them chose to do so. Both the findings and the sentence as to each accused were approved by a two-thirds vote of the members present. An effort has been made in this Section to discuss all questions of substantial importance raised by the defense. Some of the minor questions, which are traceable to the defense's refusal to concede the non-applicability of American municipal criminal law rules of procedure and evidence, are not discussed. The trial was conducted with fairness to all accused.

Examination of the entire record fails to disclose any error or omission which resulted in injustice to the accused.

K. Manner of Execution of Death Sentences:

With regard to such accused as might be sentenced to death, the defense requested that the sentence be executed by musketry. The defense indicated that the request was initiated by the accused and that such manner of execution

would be more fitting than death by hanging and would accord with the rights and privileges of the accused as soldiers (R 3250). The Court recited that it was referring the request to the Commanding General, US Forces, European Theater, recommending that the request receive favorable action. The Court stated, however, that it was bound by current procedure which prescribed that death sentences be executed by hanging (R 3251; par 7 c, letter, Headquarters, US Forces, European Theater, file AG 000.5 WCB-AGO, subject, "Trial of War Crimes Cases," 26 June 1946, as amended by letter by same Headquarters, 11 July 1946).

No reason is seen for permitting a war criminal sentenced to death to choose a form of execution of death sentence which to him is less ignominious than the prescribed manner of execution. This is particularly true in a case such as this where the record of trial reflects that the accused applied terrorism in a manner unprecedented in warfare. It is, therefore, recommended that the sentences to death be executed in the prescribed manner, i.e.; hanging.

VI. EVIDENCE AND RECOMMENDATIONS:

For the sake of brevity and clarity in treating the evidence for and against particular accused in this Section VI, the accused concerned is usually referred to by use of the phrases "the accused" or "this accused."

1. Valentin BERSIN

Nationality:	German
Age (May 1946):	25
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, March 1940 to May 1945
Military Status:	Sergeant, Tank Commander, 2nd Platoon, 1st Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging.

Evidence for Prosecution:

Wanne. The accused stated in his extrajudicial sworn statement that on either 19 or 20 December 1944 when the tank commanded by himself was in Wanne, Belgium, he received an order from Second Lieutenant Heubeck, his commanding officer, to take two men from each of the crews of two tanks and round up all male civilians over sixteen years of age who were able to bear arms and have them shot. The accused stated that he remonstrated against this order; but when Heubeck insisted upon it, he passed the order on to two members of his own crew and to Sergeant Pflueger who assigned two men from his crew to help carry out the mission. Although the accused was not present at the execution of the order, he later heard from some soldiers that two Belgian male civilians had been shot. On the evening of the same day he reported to Heubeck: "Orders executed, Belgian civilians have been shot." (R 1177, 1178; P-Ex 89).

This statement is corroborated by the extrajudicial sworn statements of KOTZUR (R 1160-1162; P-Ex 87), TRETTIN (R 1172, 1173; P-Ex 86), CLOTTEN (R 570; P-Ex 40), Brecht (R 1191-1196; P-Ex 90); and by the testimony of Schneider (R 1164-1169), Hemroulle (R 1179-1184); Milbers (R 1185-1188).

and Englebert (R 1198-1206). KOTZUR stated that the two civilians were shot almost in the immediate presence of the accused (R 1160-1162; P-Ex 67).

Evidence for Defense:

Wanne. Woch testified that during the Ardennes Offensive he was a tank driver in the 2nd Platoon, 1st Panzer Company. The accused was his tank commander. The witness testified that he was in Wanne from 20 to 26 December 1944. He rode in the same tank with the accused and occupied the same quarters with him. He never heard the accused give any orders with respect to civilians at any time, in Wanne or anywhere else, during the Ardennes Offensive and never heard the accused give any orders to shoot civilians (R 2680, 2681). However, he was not with the accused all the time they spent in Wanne, because they separated on account of a quarrel (R 2681).

Sufficiency of Evidence: The accused relayed specific orders to those who were to perform the illegal killings in accordance with directions of a superior who was only slightly higher in rank, but he was not required to relay the orders in his presence. Under all the circumstances, including the evidence as to his rank, years of service and position held in an essential Nazi organization, the Court might well have concluded that his desire to co-operate with and please superiors in that organization was stronger than other considerations; that he did not act unwillingly or under the immediate compulsion of superior orders; and that with regard to superior orders the accused failed to meet the burden of proof required by pertinent authorities discussed in Section V, supra.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by the Chief Defense Counsel and other American defense counsel, undated but filed 28 December 1946 (the date fixed by various informal extensions of time to file). A Petition for Clemency was filed by accused's mother, Kathe Bersin, 30 August 1946.

Recommendation: That the findings and sentence be approved.

2. Friedel BODE

Nationality: German

Age (May 1946):	23
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, October 1943 to May 1945
Military Status:	Sergeant, Group Leader, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Bullingen. Joachim HOFMANN asserted in his extrajudicial sworn statement that on 17 December 1944, when the column was about one kilometer from Bullingen, he saw the crews of the accused's and two other troop carriers fire into a group of 12 or 14 American prisoners of war who were marching to the rear, unarmed and with hands raised overhead in token of surrender. Some of the Americans fell to the ground (R 646, 647; P-Ex 46).

The Crossroads. Between 1300 and 1400 hours 17 December 1944 JAKEL, according to his extrajudicial sworn statement, saw the accused and his troop carrier at the Crossroads. His vehicle was parked by a pasture in which stood 60 to 80 unarmed surrendered American prisoners of war (R 684-686; P-Ex 49). After these prisoners had been fired upon, the accused and others were seen moving about in the pasture shooting those prisoners who appeared to be alive, according to the extrajudicial sworn statements of JAKEL (R 687; P-Ex 49), Joachim HOFMANN (R 650; P-Ex 48), and WASENBERGER (R 727; P-Ex 54).

Evidence for Defense:

The Crossroads. KIES, who was a member of the crew of the accused's troop carrier, stated in his extrajudicial sworn statement that Jirassak was the only member of the crew who fired at the Crossroads (R 1416; P-Ex 111). Deiba testified that he arrived at the Crossroads between 1500 and 1600 hours 17 December 1944 (R 2482) and he did not see the accused there at that time (R 2528). GOLDSCHMIDT testified that he did not see the ac-

cused at the crossroads, but he did not remember the time he arrived there.

He thought it was later than the early afternoon hours (R 2415).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1945. Petitions for Clemency were filed by the Evangelic Lutheran Parish, Lohne in Westphalia, 2 August 1946; accused's wife, Helene Bode, 6 August 1946; his mother, Anna Schnabel-Bode, 4 August 1946; Georg Vetter, 3 August 1946; and August Samson, 2 August 1946.

Recommendation: That the findings and sentence be approved.

3. Marcel BOLTZ

This accused was withdrawn from the trial.

4. Willi BRAUN

Nationality:	German
Age (May 1945):	20
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, February 1944 to December 1944
Military Status:	Private First Class, Machine Gunner, 4th Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Stoumont. The accused, in his extrajudicial sworn statement, related that on the morning of 19 December 1944 in the vicinity of Stoumont seven American prisoners of war were turned over to Sergeant Schumacher, commander of the troop carrier of which he was a crew member. Schumacher ordered the entire crew to dismount with hand weapons and kill the prisoners. In conformity with this order the crew dismounted and, including the accused who was using a fast firing rifle, shot the prisoners (R 1379-1381; P-Ex 106). This is corroborated by the extrajudicial sworn statement of FRIEDRICHS (R 1395, 1396; P-Ex 108).

Evidence for Defense:

Stoumont. The accused stated that he fired at American prisoners of war in Stoumont in compliance with the order of his superior, Sergeant Schumacher (R 1379-1381; P-Ex 106).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

5. Kurt BRIESEMEISTER

Nationality: German
Age (May 1946): 24

Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, September 1940 to May 1945
Military Status:	Sergeant, Tank Commander, 1st Platoon, 1st Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that he arrived at the Crossroads about 1530 hours 17 December 1944. With the aid of one of his crew members he dismantled a machine gun from his tank and fired about 70 to 80 shots into the unarmed and surrendered American prisoners of war who were lying prostrate in the pasture. The accused further stated that he shot at six or seven American prisoners of war when they ran out of a barn after it had been set afire by his men. The barn was located on the edge of the pasture where the dead prisoners were lying (R 787, 788; P-Ex 59).

Flohmann testified that he saw the accused's tank about 40 meters from the Crossroads between 1400 and 1500 hours 17 December 1944. On 24 December 1944 the witness heard the accused make the statement that he had shot an American soldier at a house near the Crossroads; that the accused said he went among the American prisoners of war lying near the corner and finished off with his pistol the ones who were not actually dead; and he said that he had fired on a house near the Crossroads in which he had found firearms (R 792-795).

Stavelot. The accused stated in his extrajudicial sworn statement that in the vicinity of Stavelot on the night of 17-18 December 1944, he entered a house and to his surprise an American opened the door for him. After a short exchange of words he shot the soldier in the chest with a pistol. He did not believe the American was a prisoner (R 790; P-Ex 59).

Evidence for Defense:

The Crossroads. Lieber testified that the accused was not at the

Crossroads when he arrived at 1400 or 1430 hours 17 December 1944 (R 2581), but that the accused did arrive about one-half hour later, explaining that he had had motor trouble (R 2588).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's mother, Emma Briesemeister, 7 October 1946; and his sister, Anneliese Briesemeister, 30 August 1946.

Recommendation: That the findings and sentence be approved.

6. Willi Von CHAMIER

Nationality:	German
Age (May 1946):	30
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, April 1943 to December 1944
Military Status:	Sergeant, Machine Gunner, 9th Panzer Pioneer Company, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that he arrived at the Crossroads about noon on 17 December 1944. Upon specific order of his company commander, RUMPF, he opened fire upon 90 unarmed and surrendered American prisoners of war. The accused fired six shots at those prisoners with his carbine (R 747, 748, 750; P-Ex 58).

statement of RIEDER (R 758, 759; P-Ex 57).

Evidence for Defense:

The Crossroads. Bath testified that he arrived at the Crossroads about 1400 or 1430 hours (R 2793) and he did not see the accused shoot prisoners of war at the Crossroads (R 2798). According to the extrajudicial sworn statement of the accused, his participation in the shooting at the Crossroads was in compliance with orders from his superior (R 747, 748; P-Ex 56).

Sufficiency of evidence: The accused shot prisoners of war in the presence of a superior in conformity with his direction. The Court apparently concluded that by the evidence on behalf of the accused in support of superior orders that the accused met the burden of proof required by the authorities discussed in Section V, supra, and proved that he acted under immediate compulsion to a degree.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

7. Friedrich CHRIST

Nationality:	German
Age (May 1946):	26
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, April 1939 to May 1945
Military Status:	First Lieutenant, Commander, 2nd Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Instructions to Subordinates. The accused in his extrajudicial sworn statement stated that on 15 December 1944 he repeated the talk of Foetschke to his company to the effect that the impending offensive was a decisive one; that the troops were to behave toward the enemy so that panic and terror would precede them and discourage the enemy from resisting; and that no prisoners were to be taken (R 261; P-Ex 15).

The fact that this talk was given by the accused to his company on 15 December 1944 is corroborated by the extrajudicial sworn statements of MIKOLASCHKE (R 1311, 1312; P-Ex 100), RITZER (R 1305; P-Ex 99), SZYPERSKI (R 1340; P-Ex 102), and WERNER (R 1348; P-Ex 103).

The Crossroads. RUMPF in his extrajudicial sworn statement stated that he arrived at the Crossroads about noon 17 December 1944 and that about five minutes after his arrival the accused requested a few men for a detail which apparently was for the purpose of shooting prisoners of war (R 736-738; P-Ex 55). REHAGEL stated in his extrajudicial sworn statement that at the Crossroads the accused gave an order to shoot surrendered and unarmed American prisoners of war (R 589-591; P-Ex 42).

La Gleize. One witness testified that at La Gleize the accused ordered the shooting of about 30 American prisoners of war (R 1320). This incident is corroborated by the extrajudicial sworn statement of RITZER who stated that at La Gleize he recognized the accused's voice giving an order to take 20 to 30 surrendered and unarmed American prisoners of war into a pasture and to "bump them off". RITZER also stated therein that he did not see the accused at this time, nor did he actually see the prisoners shot, but he knew that the guards marched off with the prisoners. Later he talked with a messenger who showed him an American watch which the messenger said had been taken from an American prisoner who was shot by the accused (R 1307; P-Ex 99).

Stoumont. MIKOLASCHEK stated in his extrajudicial sworn statement that many shootings of prisoners of war took place at Stoumont on 19 December 1944 upon orders of a platoon leader who had received an order from the accused over the radio to shoot prisoners of war (R 1312; P-Ex 100). This is corroborated by the extrajudicial sworn statement of WERNER (R 1348, 1349; P-Ex 103).

A witness testified that 12 to 18 unarmed and surrendered prisoners of war standing before a grocery store in Stoumont were fired upon from the turret machine gun of the accused's tank (R 1354).

Evidence for Defense:

Instructions to Subordinates. The accused testified that he gave instructions to his troops prior to the offensive regarding the treatment of prisoners of war. These instructions were that the troops were not to waste time bringing in prisoners. They were instructed that the infantry following would take over prisoners. He gave his company instructions concerning the laws of war and the Geneva Convention on two occasions, once between 8 and 10 December 1944 in Pleisheim and again on 16 December 1944 in Schmitzheim Forest (R 2124, 2125). He further testified that the reason he gave instructions that the troops were not to bring in prisoners was because of a meeting he participated in on 15 December 1944 at Blankenheim in which it was emphasized that the speed of the advance was to be such that the troops could not worry about booty or prisoners of war (R 2126). He further testified that the fundamental theory of Panzer troops was not to take prisoners, but to permit them to stand where they were or walk back to the rear to be picked up by the units following. He was told that the 2nd Panzer Grenadier Regiment would follow for that purpose (R 2127).

The Crossroads. The accused testified that he first found out about the shooting of prisoners of war at the Crossroads when he was a prisoner of war in Camp Teruberg immediately after the capitulation, except for vague references he had heard while he was in Le Gleize.

All he heard concerning the incident while he was in La Gleize was an inquiry as to whether or not he or any men of his company participated in the shooting at the Crossroads. In response to the inquiry the accused denied that he or his men knew anything about it. He did not make an investigation to determine whether his men participated in the shooting (R 2152, 2153). The accused denied that he gave orders to shoot prisoners of war at the Crossroads (R 2136).

The driver of the accused's tank testified that he arrived at the Crossroads about 1530 hours 17 December 1944. The accused was with his company during the entire trip from Honsfeld to the Crossroads and most of the time was in his tank (R 2459).

La Gleize. The accused testified that he did not give any orders to shoot prisoners of war at La Gleize (R 2136).

Stoumont. The accused testified that he did not give orders to shoot prisoners of war at Stoumont (R 2136). This is corroborated by the testimony of witness Oskar Maurer (R 2749).

A witness testified that he was in a tank about 10 to 15 meters behind the accused's tank when they stopped near a grocery store in Stoumont. The witness did not see any prisoners of war standing in the vicinity of the store nor did he see anyone from the accused's tank fire in the direction of the store. No orders were given to fire at standing prisoners (R 2776-2778).

Pretrial Interrogations. The accused testified that on 2 December 1945 he was interrogated at Schwaebisch Hall. During the course of the afternoon he wrote three statements (R 2134), the last of which was written as he was required to write it. It contained statements which were not true. He was told that the order that prisoners of war were not to be taken was issued by FEIPER, and that he should have protected himself against it. At the end of the interrogation he asked the interrogator when he would be tried before a court, and was told "Such little war criminals as you will not be put before a court; we cannot

make such a big show for the little guys like you. This will only be a trial of the record; it will be decided tonight, and you will find out your sentence tomorrow" (R 2135). He was then placed in solitary confinement. During the course of another interrogation on 19 March 1946, he was told, "We called you here in order to tell you about the points of your charge. We want you to have a good chance; you are only a First Lieutenant; we want Seiper, Preiss and Dietrich --- We only want them, not you." He was told that the accusations against him were that he had given orders in Le Gleize and Stoumont to shoot prisoners of war and that he had been present at the Crossroads and had given orders. The accused denied this. Thereupon he was cursed terribly and told that if he did not tell the truth he would be hanged in Bruchschel; that his mother would receive a form message about his hanging; that she would not get any work; that she would not get any ration cards; and that she would necessarily starve. He was also told that if he did not talk he would be sent to Stoumont and be shot while trying to escape; that he would regret the hour in which he did not commit suicide; and that his mother would regret and curse the hour she gave birth to him (R 2136). On 17 December 1945, during an interrogation, he was told that he was one of the last to make his statement; that all the others who had been there had already made their statements; and that they had all admitted their participation. Upon denying the charge he was cursed at and became confused (R 2139, 2140). Accused was confronted by Lieutenant Lery on 4 April 1946 and was told that Lieutenant Lery had recognized him as being at the Crossroads (R 3137).

Lieutenant Perl testified that he never threatened to hang the accused if he failed to tell the truth. He also testified that he did not curse the accused (R 2934).

Mr. Harry Thon testified that he did not "persecute" and did not threaten to hang the accused (R 2940).

Sufficiency of evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism, which the accused as an officer in an essential Nazi organization actively supported. There is nothing in mitigation.

The evidence is conflicting as to the methods used in the pretrial interrogations of the accused. It was for the Court to determine whether the accused's statements made during such interrogations were voluntary and whether he was induced to state untruths. The accused's extrajudicial sworn statement, P-Ex 15, referred to above, is corroborated by four co-accused. It does not appear that the Court assigned inappropriate probative value thereto. In any event, the conclusions of the Court are adequately supported by other evidence.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A petition for review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Dr. Hans Hartkorn, 16 January 1947; and Professor and Mrs. Bruhn, 21 July 1946.

Recommendation: That the findings and sentence be approved.

8. Roman CLOTTEN

Nationality:	German
Age (May 1946):	25
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, October 1939 to May 1945
Military Status:	Staff Sergeant, Tank Commander, 2nd Platoon, 7th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Pler:	NG
Findings:	G

Sentence:

10 years, commencing 16 July 1946

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that on the march to the Crossroads his tank and that of SIPTROTT stayed close together because each tank had mechanical difficulty. Both tanks arrived at the Crossroads at the same time. While at the Crossroads a member of the accused's tank crew, Bock, took a machine pistol and fired into a group of surrendered and unarmed American prisoners of war. Bock fired a second time, about five or seven shots from a machine pistol, before the accused told Bock to stop (R 567, 568, 569; P-ex 40). This is corroborated by the extrajudicial sworn statements of SIPTROTT and his gunner FLEPS, to the extent that the tanks of the accused and SIPTROTT remained together during the march to the Crossroads, arrived and stopped there at the same time, and that FLEPS fired into the prisoners (R 544, 562; P-exs 38, 39).

Evidence for Defense:

The Crossroads. The accused stated in a second extrajudicial sworn statement that he would have prevented the shooting had he not been incited by the speeches of his company commander and his platoon leader and had he not known that the shooting was in accord with their wishes (R 574; P-ex 41).

Sufficiency of Evidence: The Court might well have concluded that the accused's gunner shot prisoners of war in the accused's immediate presence with his knowledge and consent and, in view of their military relationship, at his implied direction. Regardless of whether the accused realized his tank was in firing position or that Bock planned to fire, his silence and failure to act following the shooting indicated approval and by way of example furthered and encouraged the common plan.

There is no evidence that the accused acted in compliance with superior orders, except for that concerning the campaign plans and orders of various levels of command for the application of terrorism. There

is not in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Retentions: A Petition for review was filed by American defense counsel, 28 December 1946. No petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

9. Manfred COLENZ

Nationality:	German
Age (May 1946):	25
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, October 1939 to December 1944
Military Status:	First Lieutenant, Company Commander, 2nd Reconnaissance Company, 1st Panzer Reconnaissance Battalion
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Instructions to subordinates. The accused stated in his extrajudicial sworn statement that he passed on to his platoon leaders and troops in his company ANITTEL's battalion order which included an instruction directing that in compelling emergencies prisoners of war could be shot (R 1073; P-Ex 80).

Stavelot. The accused further stated therein that while in Stavelot on 21 December 1944 one of his platoon leaders, Second Lieutenant Siebert, reported that he had some American prisoners of war shot because he could not spare any personnel to guard prisoners (R 1074; P-Ex 80).

Manl, an SS private in the Pioneer Platoon, Headquarters Company, 1st Panzer Reconnaissance Battalion, testified that he saw the accused and other officers outside of Stavelot engaged in a conversation.

Sergeant Wolf took some American prisoners of war, about six or eight in number, to the woods after these officers had pointed to them during the conversation. Immediately after they entered the woods, the witness heard four or five bursts from a machine pistol and when he next saw Wolf one-half hour later he was alone (R 1039, 1040).

The same witness, Muhl, also testified that in a village near Stevelot he saw the accused and two others standing near a shed. Later, he heard that civilians were shot in that shed (R 1043). However, when asked to identify the accused the witness identified accused No. 57, SICKEL (R 1044). Another witness, Gertner, testified that he saw a number of dead civilians in a village not far from Stevelot and that units of the 2nd Reconnaissance Company, commanded by the accused, were present in the village at that time (R 1057, 1058, 1061).

Evidence for Defense:

Instructions to Subordinates. Goltz, company commander of the Headquarters Company, 1st Panzer Reconnaissance Battalion, testified that he was with the accused immediately prior to and subsequent to the issuance of orders on the morning of 15 or 16 December in Bisenkenheim Forest; that the two occupied the same quarters and discussed the pending offensive; that the accused never told him anything concerning the shooting of prisoners of war, nor did the accused say anything or issue any orders about shooting prisoners of war either before or during the offensive (R 2326-2329).

Stevelot. Muhl, who five weeks previously had testified for the prosecution, was called by the defense and testified that he did not see the accused outside of Stevelot and that he did not see him near the shed where some civilians were shot (R 2668, 2669). When asked to explain this contradiction to his earlier testimony he answered, "When I first came to Buchau things happened so fast I couldn't follow it and I couldn't think it through" (R 2668).

The accused explained in his extrajudicial sworn statement that the shooting of civilians in Stravelot was in reprisal for the shooting of one of his men (N 1069; P-Ex 79).

Sufficiency of evidence: It was for the Court to determine the weight of the evidence and the credibility of the witnesses, including the unusual reversal of position on the part of witness Weal after the expiration of five weeks.

Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism, which the accused in an essential Nazi organization actively supported.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 26 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

10. Josef LIEFENTHAL

Nationality:	German
Age (May 1946):	30
Civilian Status:	unknown
Nazi Organizations:	Written SS, October 1935 to May 1945
Military Status:	Major, Commander, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Pls:	AG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates: The accused stated in his

extrajudicial sworn statement that he passed on to his officers the substance of a regimental order which directed that on account of the decisive importance of the offensive, the fight was to be reckless, that a wave of fright and terror precede the attacking troops, and that enemy resistance was to be broken by terror (R 1299; P-Ex 98). This is corroborated by the extrajudicial sworn statement of FINESS, Commander of the 10th Panzer Grenadier Company in the accused's battalion, in which it was added that no prisoners of war were to be taken (R 941; P-Ex 74). The extrajudicial sworn statement of TOMMARDT, Commander of the 11th Panzer Grenadier Company in the accused's battalion, confirms the fact that the order stated that no prisoners were to be taken (R 347; P-Ex 30).

The Crossroads. The accused was identified by ECKMANN in his extrajudicial sworn statement as being at the Crossroads at the time of the shooting of the surrendered and unarmed American prisoners of war about 1400 hours 17 December 1944 (R 596-598; P-Ex 43). An officer wearing a yellow leather jacket was seen at the Crossroads about the time of the shooting, according to the extrajudicial sworn statements of Joachim HOFMANN (R 650; P-Ex 46) and SPRENGER (R 624; P-Ex 44). Assenmacher testified that he saw the accused at the Crossroads about this time and that he wore a yellow leather jacket (R 841).

Cheneux. ZWIGART stated in his extrajudicial sworn statement that he shot a surrendered unarmed American soldier in the presence of and apparently with the consent and approval of the accused. The incident occurred about 1600 hours 18 December 1944. The victim was the driver of a jeep which had been disabled (R 1289-1293; P-Ex 97). This shooting incident is corroborated by the extrajudicial sworn statement of FRIEDRICH (R 1394, 1395; P-Ex 108) and the testimony of Assenmacher (R 1273-1275) and Kineck (R 1263, 1264), all of whom were present at the time of the incident and put the location as near Cheneux.

Evidence for Defense:

Instructions to Subordinates. Kinderman testified that the accused presided over a meeting on 15 December 1944 attended by his company officers. The accused spoke of the importance of the mission to reach the Mass in two days and stated that the taking of booty and prisoners of war was to be left to the infantry following behind. The accused did not say that prisoners of war were to be shot, nor did he drop any hints which would cause one to conclude that prisoners of war were to be shot. Likewise, nothing was said at this meeting about shooting Belgian civilians (R 2104, 2105). TOMHART testified that the part of his extrajudicial sworn statement to the effect that the accused, at the battalion meeting, issued an order not to take prisoners was untrue (R 2228, 2229).

The Crossroads. Neckerauer testified that the accused was his battalion commander. He drove a half-track immediately behind the tank of the accused (R 2572). He caught up with the accused's tank about 300 to 400 meters before reaching the Crossroads. The witness saw the accused standing in his tank as he drove past the Crossroads about 1315 or 1330 hours 17 December 1944. He saw no American soldiers at the Crossroads and none in the field. He did not see American soldiers on the road about 150 to 200 meters past the Crossroads marching in the direction thereof. He saw no dead Americans at the Crossroads (R 2573, 2574). PEIFER testified that he was with the accused in his vehicle at the Crossroads and the accused did not leave his vehicle (R 1933).

Sufficiency of Evidence. Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism, which the accused as a field grade officer in an essential Nazi organization actively supported. There is nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by accused's wife, Magde Diefenthal, 17 February 1947, 1 November 1946, 30 September 1946, 28 September 1946 and 23 July 1946; Rudolf Rayer, 7 October 1946; Martin Zimmermann, 10 February 1947; Karl Heinz Schmidt, 12 December 1946; Karl Heinz Flacke, 16 December 1946; Thomas Esser, 2 November 1946; and Richard Lenger, 3 October 1946.

Recommendation: That the findings and sentence be approved.

11. Josef (Sepp) DIETRICH

Nationality:	German
Age (May 1946):	54
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, February 1933 to May 1945
Military Status:	General, Army Commander, Sixth SS Panzer Army
Place:	NC
Findings:	G
Sentence:	Life imprisonment

Evidence for prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that preceding the Ardennes Offensive, he issued an Army Order of the Day directing that the troops were to be proceeded by a wave of terror and fright, that no humane inhibitions were to be shown, and that every resistance was to be broken by terror but did not order that prisoners of war should be shot (R 126; P-Ex 6).

PEIPER stated in his extrajudicial sworn statement that he was nearly certain that the Army Order of the Day contained express directions that prisoners of war were to be shot when local conditions of combat required it (R 163; P-Ex 11). GRUBLE stated in his extrajudicial sworn statement that the Army Order of the Day directed that the fight was to

be conducted stubbornly and with no regard for Allied prisoners of war, who were to be shot if necessary in very compelling situations (R 1567; P-ex 127).

Evidence for Defense:

Instructions to Subordinates. KR EGER, Chief of Staff, Sixth SS Panzer Army, testified that the Army Order of the Day did not contain statements that prisoners of war were to be shot, despite DIETRICH's confession to the contrary (R 1672-1674). MAIER, a former member of the Sixth SS Panzer Army Staff, testified that the Army Order of the Day did not state that the troops were to be preceded by a wave of terror and that no humane inhibitions were to be shown, nor did it say anything about prisoners of war (R 1727-1730). This is corroborated by the testimony of Niemssen, G-3, 1st SS Panzer Division (R 1781), Lehmann, Chief of Staff, I SS Panzer Corps (R 1855, 1856), and Wundmann, Commander, 12th Panzer Regiment, 12th SS Panzer Division (R 1879, 1880). PRIESS testified that neither the Army Order of the Day nor the field order contained anything about prisoners of war, civilians, or brutal measures (R 1747-1750).

Sufficiency of Evidence: The accused held a high position in the German Reich and the Waffen SS. He was an essential moving force in applying the plans for the application of terrorism during the counter-offensive. There is nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A petition for review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Two letters were received, one from Albert Bruckner, July 1946 and another from "A German Cosmopolitan", 26 July 1946, both protesting the action of the Court in giving the accused a sentence of life imprisonment instead of a death sentence.

Recommendation: That the findings and sentence be approved.

12. Fritz ECKMANN

Nationality:	German
Age (May 1946):	21
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, March 1943 to May 1945
Military Status:	Private First Class, Radio Operator, 1st Platoon, 1st Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Flac:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that at the Crossroads at about 1300 or 1400 hours 17 December 1944 he observed 70 to 100 surrendered and unarmed American prisoners of war gathered together in a field near the Crossroads; that he received an order from his tank commander to "bump off" the prisoners of war; that he fired two bursts with his machine gun into the group of prisoners and they dropped to the ground; and that he strafed some prisoners who were still standing after the initial bursts (R 596, 597; P-Ex 43).

Le Gleize. The accused further stated therein that on 20 December 1944 between 1100 and 1200 hours two German soldiers brought seven unarmed American prisoners of war to the tank in which he was serving as radio operator; that the prisoners were then taken some 20 meters in front of the tank, lined up in two rows with their backs to the tank; that Skots, the tank commander, then ordered Arler, who was the machine gunner on Skots's tank, to "bump the prisoners off". Arler then killed these seven American prisoners (R 598, 599; P-Ex 43). With respect to this incident, witness Flohmann testified that the accused said, the next day, "Well, we bumped those fellows off and some of them had not been dead and they had been moaning and screaming"

Evidence for Defense:

The Crossroads. The shooting at the Crossroads was upon the order of the accused's tank commander (R 597; r-Ex 43).

Sufficiency of Evidence: The admission of the accused as to his participation in the shooting at the Crossroads as set forth in his extrajudicial sworn statement is uncorroborated by any evidence which would tend to prove that the accused was actually at the Crossroads at the time the shooting occurred. In accordance with the principles set forth in Section V, F, 7, supra, adequate corroboration is lacking. It does not appear that the accused participated in the shooting at La Gleize.

The findings of guilty are not warranted by the evidence.

Retentions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused's mother, Luise Eckmann, 9 August 1946.

Recommendation: That the findings and sentence be disapproved.

13. Arndt FISCHER

Nationality:	German
Age (May 1946):	23
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, February 1939 to May 1945
Military Status:	Second Lieutenant, Adjutant, 1st Panzer Battalion, 1st SS Panzer Regiment
Rank:	4G
Findings:	G
Sentence:	15 years, commencing 16 July 1946

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that at the company commanders' meeting (1st Panzer Battalion) held at the regimental command post on 15

December 1944 he received from PEIPER's adjutant, GROHLE, a written regimental order which, among other things, said that a wave of fear and terror was to precede the troops and that prisoners of war were to be shot where military necessity absolutely required it. The accused caused this regimental order to be typed into a battalion order, receipt of which was acknowledged by the signatures of the company officers of the battalion at the end of the meeting (R 174-176; P-Ex 13). CHRIST, JUNAER and KLINGELHOEFER, company commanders, 1st Panzer Battalion, stated in their extrajudicial sworn statements that they received such orders at the meeting (R 261, 290, 300; P-Exs 15, 17, 18) and KLINGELHOEFER stated that he acknowledged, by his signature, receipt thereof (R 300; P-Ex 18).

Evidence for Defense: The accused did not take the stand.

Sufficiency of Evidence: The accused was a party to the common plan and gave his superiors full co-operation in the execution thereof. The tasks performed by him fully demonstrate the nature of his participation and the extent of his culpability. It appears that the Court fully considered all mitigating circumstances.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

14. Georg FLEPS

Nationality:	Rumanian
Age (May 1946):	23
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, July 1943 to May 1945
Military Status:	Private First Class, Assistant Gunner, 3rd Platoon, 7th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment

Facts: NG
Findings: G
Sentence: Death by hanging

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that he was at the Crossroads on 17 December 1944 and saw approximately 80 unarmed and surrendered American prisoners of war standing in a field with their hands raised. The accused admitted that he fired the first shot at the Crossroads from his pistol at one of the American prisoners and later shot at two others (R 543-545; P-Ex 38). Lery, an American lieutenant who was present at the Crossroads, identified the accused as one who fired the first two pistol shots into the group of American prisoners, one of whom was hit (R 418, 419). Loehmann testified that the accused said that he fired several shots into the prisoners (R 549). Reicke also testified that the accused admitted shooting into the prisoners (R 554).

Evidence for Defense:

The Crossroads. The accused stated in his extrajudicial sworn statement that he fired the shot at the Crossroads pursuant to the command of his platoon leader, SIFTROTT (R 543-545; P-Ex 38). This is corroborated by the extrajudicial sworn statement of SIFTROTT to the extent that SIFTROTT "permitted" the accused to fire (R 561, 562; P-Ex 39).

Sufficiency of Evidence: Apparently the Court concluded that the accused willingly killed surrendered prisoners of war in conformity with the direction of his superior, a noncommissioned officer. However, in the absence of positive evidence that some compulsion did not result from the immediate presence of his superior, it cannot be inferred that there was a total absence of compulsion and this factor should be considered in mitigation. Rumania was a co-belligerent of Germany.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the Protestant Fraternity A.B. of Michelsberg-Cisnadiocart, Rumania, 29 December 1946; J. Aloss, 29 December 1946; Parson Otto Scheiner, 24 November 1946; the accused's mother, Anna Fleps, 13 September 1946 and 16 October 1946; Coman Bretu and Gh. Balasana, 19 June 1947; and Colonel Simionescu Alexander, Commanding Officer of the Military Authority of the District of Hermannstadt, and Major Patculescu Johann, Chief of Bureau 2, Evid. Cont. Vatra of the District of Hermannstadt, 25 June 1947.

Recommendation: That the findings and sentence be approved, but that the sentence of death by hanging be commuted to life imprisonment.

15. Heinz FRIEDRICH

Nationality:	German
Age (May 1946)	19
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, April 1944 to December 1944
Military Status:	Private, Driver of a Personnel Carrier, 4th Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Color:	MC
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Statement. The accused stated in his extrajudicial sworn statement that in the vicinity of Stoumont during the morning of 19 December 1944 seven unarmed and surrendered American prisoners of war were turned over by a paratrooper to Sergeant Schumacher who ordered the entire crew of the vehicle, including the accused, to dismount and shoot the prisoners. The accused admitted that he shot at two of these American soldiers, firing two bursts of seven or eight shots each with his machine pistol (R 1395, 1396; P-83. 108). The circumstances of the shooting are

corroborated by the extrajudicial sworn statement of BRAUN (R 1380, 1381; R-Ex 106).

Evidence for Defense:

Statement. The accused stated in his extrajudicial sworn statement that he fired at the unarmed surrendered American prisoners of war in compliance with the direct order of his superior, Sergeant Schumacher (R 1375, 1396; R-Ex 108).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A petition for review was filed by American defense counsel, 28 December 1946. A petition for Clemency was filed by the accused's parents, Heinrich and Margareta Friedrichs, 12 December 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 10 years, commencing 16 July 1946.

16. Fritz GEBAUER

Nationality:	German
Age (May 1946):	18
Civilian Status:	Unknown
Nazi Organizations:	Joined SS, August 1944 to December 1944
Military Status:	Private, Rifleman, 4th Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment

Fier: NG
Findings: G
Sentence: Life imprisonment

Evidence for Prosecution:

Cheneux. The accused stated in his extrajudicial sworn statement that he was at the edge of the town of Cheneux about 1900 or 2000 hours 18 December 1944. His group reached a house on the left side of the road, opposite which stood four or five tanks, ^{/and} directly in front of which stood about 30 to 40 American prisoners of war who were surrendered and unarmed. The entire group, with the exception of RAUH but including the accused, proceeded to fire at these prisoners. The accused aimed at one of the Americans and fired five shots at him. This man was hit, slumped to the ground and did not move any more (R 1233, 1234; P-Ex 94). RAU, a member of the crew of the same vehicle as that of the accused, corroborates the statement of the accused except that he placed the time at 1800 to 1900 hours (R 1238-1240; P-Ex 95).

De Gleize. The accused stated in his extrajudicial sworn statement that he was in De Gleize on 18 December 1944 and at about 1700 hours the personnel carrier in which he was riding stopped in front of a wall surrounding a church. In front of this wall stood about 15 surrendered and unarmed American prisoners of war. The accused and others from his vehicle fired at the prisoners. The accused fired a .98 carbine at one prisoner of war, hitting him about four times in the neck. He saw this prisoner of war slump to the ground and neither move nor groan thereafter (R 1233; P-Ex 94). This is corroborated in all pertinent details by RAU (R 1238, 1239; P-Ex 95).

Evidence for Defense:

Cheneux. The accused stated in his extrajudicial sworn statement that he fired into the prisoners at Cheneux pursuant to orders from his superior, Sergeant Wislfer, commander of the accused's personnel carrier (R 1233, 1234; P-Ex 94). This is corroborated by the

The American witness, Lieutenant Colonel McGown, testified that no American troops were in Cheneux on 18 December 1944 (# 1840).

Lt Gleize. The accused stated in his extrajudicial sworn statement that he fired the shots at an American prisoner in Lt Gleize pursuant to an order from his superior, Sergeant Wielfer (# 1233, 1234; r-ex 94). This is corroborated by the extrajudicial sworn statement of accused RUD (# 1238, 1239; r-ex 95).

Sufficiency of evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A petition for review was filed by American defense counsel, 28 December 1946. No petitions for clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 10 years, commencing 16 July 1946.

17. Heinz Gerhard GOEBCKE

Nationality:	German
Age (July 1946):	18
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, August 1944 to July 1945
Military Status:	Private, Radioman, 1st Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment

Pier: NG
Findings: G
Sentence: Life imprisonment

Evidence for Prosecution:

Le Gleize. The accused stated in his extrajudicial sworn statement that, about 1500 or 1600 hours 18 December 1944 while in Le Gleize, the crew of the vehicle in which he was riding stopped in the middle of the street near a church in front of which was a stone wall. Before the stone wall stood about 25 to 30 American prisoners of war. These prisoners of war were surrendered and unarmed. The accused shot at the prisoners three times with his rifle. Other members of the crew, as well as the crews of other vehicles, also fired at the prisoners. The prisoners fell to the ground and were not seen to move, nor was any moaning heard (R 1223; P-Ex 92). This incident is corroborated by the extrajudicial sworn statements of HECHT to the extent of 15 prisoners (R 1214, 1215; P-Ex 91) and RICHTER to the extent of 10 to 15 prisoners (R 1228; P-Ex 93).

Evidence for Defense:

Le Gleize. The accused stated in his extrajudicial sworn statement that he fired the shots in Le Gleize pursuant to an order from Sergeant Klipp, his platoon leader and commander of his vehicle (R 1222-1224; P-Ex 92). This is corroborated by the extrajudicial sworn statements of HECHT (R 1214, 1215; P-Ex 91) and RICHTER (R 1227, 1228; P-Ex 93).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which

combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Retentions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused's mother, Anna Goedloke, 10 August 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 10 years, commencing 16 July 1946.

18. Ernst COLBOGEMDT

Nationality:	German
Age (May 1946):	26
Civilian Status:	Unknown
Nazi Organizations:	Griffen SS, April 1940 to May 1945
Military Status:	Corporal, Personnel Carrier Driver, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Place:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Honsfeld. Joachim HOFMANN stated in his extrajudicial sworn statement that, on 17 December 1944 at 0700 or 0800 hours after he had gone through Honsfeld and made a turn to the right on the outskirts of the town in the direction of Bullingen, he observed two houses. In front of one were eight to ten American prisoners of war standing with their hands above their heads in a sign of surrender. Bouter was seen with a machine pistol slung over his shoulder standing beside his parked vehicle which was near the house. The accused, who was driver of Bouter's personnel carrier, was seen with a machine pistol in his hand. A little farther down the road Joachim HOFMANN saw the bodies of 15 or 20 American soldiers in a field on the left side of the road directly

opposite Beutner's personnel carrier. They were lying close together without any weapons (R 646, 647; P-Ex 46).

This account by HOFMANN is corroborated by the extrajudicial sworn statements of NEVE, except that NEVE did not remember seeing the accused near Beutner's vehicle (R 668, 669; P-Ex 48); SPRENGER (R 619-621; P-Ex 44); JAKEL (R 682; P-Ex 49); and Boltz (R 712, 713; P-Ex 51). SPRENGER and Boltz also stated that, shortly after the incident, HAMMERER said to SPRENGER that the 15 Americans on the left side of the road were shot from the accused's vehicle (R 621, 712, 713; P-Exs 44, 51).

Pullingen. SPRENGER stated in his extrajudicial sworn statement that in January 1945 the accused told him while they were in Eschweiler that he and others had shot a group of prisoners in the field in Pullingen (R 622; P-Ex 44).

The Crossroads. The accused was named as one of those who fired into prisoners of war at the Crossroads on 17 December 1944 in the extrajudicial sworn statements of SPRENGER (R 623, 624; P-Ex 44), Joachim HOFMANN (R 648, 649; P-Ex 46), NEVE (R 669, 670; P-Ex 48) and SCHAEFER (R 1400; P-Ex 109).

Stoumont. JAKEL stated in his extrajudicial sworn statement that he saw the accused in Stoumont on 19 December 1944. Leibert and the accused were in a field shooting four American prisoners of war who were surrendered and unarmed. These Americans were not making any attempt to escape nor did they do anything to provoke the shooting. The accused and Leibert fired into them as they were standing approximately seven meters from the Americans. The shooting was carried out with machine pistols (R 689; P-Ex 49).

Joachim HOFMANN stated in his extrajudicial sworn statement that the accused and Oettinger entered a shed in Stoumont. Later, both pistol and machine pistol fire were heard. The accused and Oettinger were asked what was the reason for the shooting and Oettinger replied

that as he had cocked his pistol one of the American soldiers who appeared to be dead rolled over. Lettinger was armed with a pistol and the accused with a machine pistol (A 653; D-ex 46).

Evidence for Defense:

Honsfeld. The accused testified that he did not see any prisoners of war in the vicinity of Honsfeld (R 2403) and that he was not present when H. SCHARFER told SPRENGER that the crew of the accused's personnel carrier shot 14 prisoners of war on the left side of the road opposite the place where his personnel carrier was parked (R 2403).

Bullingen. In his testimony the accused denied that he told SPRENGER at Eschweiler in January 1945 that he and others had shot a group of prisoners of war in a field in the vicinity of Bullingen (R 2425, 2427).

The Crossroads. In his testimony the accused further denied that he shot prisoners at the Crossroads as charged in the extrajudicial sworn statements of JAKEL, SPRENGER, NEVE, SCHARFER and Joachim HOFMANN (R 2416-2419).

The accused stated in an extrajudicial sworn statement that he arrived at the Crossroads in the early afternoon of 17 December 1944. In a large pasture to the right of the road there were about 60 dead Americans. He did not know why they were shot. His personnel carrier did not stop at the Crossroads and he did not participate in the shooting (R 2409; D-ex 5). The accused testified that he did not see Joachim HOFMANN, NEVE, SPRENGER, JAKEL, KISS, BODE, or SCHARFER at the Crossroads on 17 December 1944 (R 2414, 2415).

Stoumont. The accused testified that his company arrived in Stoumont on 19 December and stayed there about two days. During his stay in Stoumont he did not shoot any American prisoners of war, nor did he see anyone else shoot them (R 2410; D-ex 5).

The accused denied the assertion in JAKEL's extrajudicial sworn statement that he, the accused, and Leibert went into a field and shot

Sufficiency of evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused wholeheartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

19. Hans GRUBLE

Nationality:	German
Age (May 1946):	26
Civilian Status:	Unknown
Nazi Organizations:	Joined SS, October 1939 to May 1945
Military Status:	Captain, Adjutant, 1st SS Panzer Regiment
Plot:	MI
Findings:	G
Sentence:	20 years, commencing 16 July 1946

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that he received the Army Order of the Day on 15 December 1944 from PEIPER. He read the order to the commanders belonging to Combat Group Peiper. The Army Order of the Day stated substantively that the fight was to be conducted stubbornly and with no regard for Allied prisoners of war. Prisoners were to be shot, if necessary, in very compelling situations (R 1567; P-Ex 127). PEIPER

stated in one of his extrajudicial sworn statements that, upon his order, the accused drew a regimental order incorporating DIBRICH's Army Order of the Day. REIFER stated that he was nearly certain that it was expressly stated in this order that prisoners of war were to be shot where the local conditions of combat required it (R 163, 164; P-Ex 11).

FISCHER, adjutant, 1st Panzer Battalion, stated in his extrajudicial sworn statement that the regimental order which he received from the accused and which he had issued as a battalion order contained a statement that a wave of fear and terror was to precede the troops and that prisoners of war were to be shot where military necessity absolutely required (R 174, 175; P-Ex 13). These statements regarding the contents of the order are supported by the extrajudicial sworn statements of JUNGER (R 289, 290; P-Ex 17) and KLINGELHOFFER (R 300; P-Ex 18).

Evidence for Defense:

Instructions to Subordinates. Otto testified that there were two meetings held in the hunting lodge in Blakenheim Forest Command Post on 15 December 1944. One conference concerned supply and was presided over by the accused (R 2093). At this conference maps were displayed, the route of march indicated, and code names for certain towns were prescribed (R 2093). Nothing was mentioned about prisoners of war or Belgian civilians at this conference which lasted for about two hours (R 2066, 2093-2094). The second meeting was a conference of commanding officers which ended prior to the termination of the supply conference (R 2094). Kropp testified that on the night of 15 to 16 December 1944 the regimental order was typed out by the combat clerk of the 1st SS Panzer Regiment; it consisted of two typewritten pages. It contained the march order of the forward units from the assembly area, the composition of the various units (R 2089, 2090), position of supporting units, route of march, positions of enemy units, and data concerning supply, communications and signals, etc. (R 2087, 2088, 2096, 2097). The order did not contain anything about treatment of prisoners of war or of Belgian civilians (R 2062,

2090, 2097). The order was classified "top secret" (R 2097) and was put in envelopes addressed to the commanding officers of each of the units of Combat Group Peiper (R 2089, 2091). There was no other regimental order issued during this counteroffensive (R 2068) and nothing was said in the order or unofficially that prisoners of war or Belgian civilians were to be shot (R 2097).

BRISSEK testified that the Army Order of the Day contained no statement that prisoners of war were to be shot even though this accused's extrajudicial sworn statements are to the contrary (R 1694).

Sufficiency of Evidence: The accused was a party to the common plan and gave his superiors full co-operation in the execution thereof. The tasks performed by him, as a principal assistant to the commander of Combat Group Peiper, fully demonstrate the nature of his participation and the extent of his culpability. It appears that the Court fully considered all mitigating circumstances.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

20. Max HAMBURGER

Nationality:	German
Age (May 1946):	21
Civilian Status:	Unknown
Nazi Organization:	Waffen SS, April 1943 to December 1944
Military Status:	Corporal, Messenger, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Place:	WG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Honsfeld. Joachim HOFMANN in his extrajudicial sworn statement stated that he passed through Honsfeld at 0700 or 0800 hours 17 December 1944 and, upon reaching the outskirts of the town at a point where the road makes a right turn in the direction of Bullingen, he saw Beutner's personnel carrier parked on the right-hand side of the road near two houses. Some artillery pieces were between the two houses. The accused was a member of Beutner's crew and, along with Beutner and the driver GOLDSCHMIDT, was standing in front of the vehicle armed with a machine pistol. Joachim HOFMANN saw eight to ten American prisoners of war standing in front of one of the houses, unarmed and hands raised in a sign of surrender. Across the road he saw 15 to 20 American soldiers lying in a field, too close together to have been shot in combat (R 646, 647; P-Ex 46). This statement is corroborated by the extrajudicial sworn statement of JAKEL, except that JAKEL stated that the accused was sitting in Beutner's personnel carrier armed with a rifle (R 682; P-Ex 49). Boltz in his extrajudicial sworn statement stated that, after he had passed the point where the 15 or 20 dead American prisoners were seen lying on the left side of the road, he heard SPRENGER ask the accused whether those prisoners had been shot by members of Beutner's crew. The accused replied, "Yes, they were bumped off" (R 712, 713; P-Ex 51).

Les Crossroads. The accused was identified as one of those participating in the firing at American prisoners of war at the Crossroads in the early afternoon of 17 December 1944 by the extrajudicial sworn statements of JAKEL (R 685, 686; P-Ex 49), SPRENGER (R 623, 624; P-Ex 44), and Joachim HOFMANN (R 648-650; P-Ex 46). The accused admitted in his extrajudicial sworn statement that he was present at the Crossroads when prisoners of war were shot (R 1411; P-Ex 110).

Le Gleize. SPRENGER stated in his extrajudicial sworn statement that in the evening of 21 December 1944 in Le Gleize he was told by Losenski that the accused and others shot nine American

prisoners of war near the schoolhouse. On 22 December 1944 GOLD-SCHMIDT told him that the accused participated in the shooting of 15 American prisoners of war in back of the schoolhouse (R 632, 633; P-Ex 44).

Stoumont. The accused admitted in his extrajudicial sworn statement that he killed an American prisoner of war in a castle near Stoumont on 20 December 1944. The American was unarmed and lying in the hallway of the castle with the lower part of his body buried in debris. The accused fired two shots, one in the head and one in the heart (R 1411, 1412; P-Ex 110).

Joscha HOFFMANN stated in his extrajudicial sworn statement that in Stoumont on 19 December 1944 he saw the accused and an unidentified paratrooper pass by with two American prisoners of war. Shortly thereafter HOFFMANN heard two or three bursts of machine pistol fire, eight to ten rounds each, following which he saw the accused and the paratrooper return by the same road without the two Americans (R 653, 654; P-Ex 46).

Evidence for Defense:

Hansfeld. GOLDSCHMIDT testified that he was in the same personnel carrier as the accused and that he did not see any American prisoners of war at or in the vicinity of Hansfeld. The column stopped on the far outskirts of Hansfeld the morning of 17 December 1944, but GOLDSCHMIDT did not see any artillery pieces near two houses nor did he see 14 dead American prisoners of war in a field on the left hand side of the road (R 2401, 2402, 2403).

The Crossroads. GOLDSCHMIDT testified that the accused was in the same vehicle with him and they did not arrive at the Crossroads until after the American prisoners had been shot (R 2411, 2412).

Le Gleize. GOLDSCHMIDT testified that while he was in Le Gleize he did not see any American prisoners of war in back of the

schoolhouse or elsewhere (R 2419, 2420).

Statement. GOLDSCHMIDT stated in his extrajudicial sworn statement that he did not see any American prisoners of war shot in
Statement (R 2410; D-X 5).

Sufficiency of Evidence: The accused obviously realized that his acts of participating in the shootings of surrendered prisoners of war who were deprived of potential means of continuing his opponents in warfare were inherently wrong and contrary to universally accepted standards of human conduct. His youth was apparently coupled with mental immaturity and relatively narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: Petition for review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the Examination Board of the Reichs-Railroad Repair Shop, 1 August 1946; member of the Locomotive section of the Reichs-Railroad Repair Shop, 1 August 1946; the Munich Police, 26 August 1946; 32 fellow workers at the Reichsbahn, 16 September 1946; Mrs. Fritz Sprackelmeier, 2 October 1946; and Mrs. Klara Korfmeier, 2 October 1946.

Recommendation: That the findings and sentence be approved, but that the sentence to death by hanging be commuted to life imprisonment.

1. Main HECHT

Nationality:	German
Age (May 1946):	21
Civilian Status:	unknown
Nazi Organizations:	Waffen SS, October 1944 to May 1945
Military Status:	Corporal 1, Personnel Carrier Driver, 1st Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plat:	AG

Findings:

u

Sentence:

Life imprisonment

Evidence for prosecution:

Lt Gleize. The accused stated in his extrajudicial sworn statement that at Lt Gleize in the afternoon of 18 December 1944 the vehicle in which he was riding stopped on a road near a church which was surrounded by a wall. In front of the wall stood 15 American prisoners of war who were unarmed and surrendered. Sergeant Klipp, the commander of the vehicle, ordered the entire crew to shoot at these prisoners of war. The accused aimed with his Belgian pistol at one of the prisoners, fired five shots at him, hit him, and saw him slumping to the ground (R 1214, 1215; P-Ex 91). This shooting is corroborated by GODICKE to the extent of 10 prisoners of war (R 1223; P-Ex 92) and RACHTER to the extent of 10 to 15 prisoners (R 1228; P-Ex 93), in their extrajudicial sworn statements.

Evidence for defense:

Lt Gleize. Gott testified that the accused's vehicle was ahead of his and it did not stop in Lt Gleize on 18 December 1944 (R 2890). He saw no Americans or American prisoners of war in Lt Gleize on 18 December 1944 (R 2891).

Sufficiency of evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

petitions: A petition for review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's father, Herbert Mecht, 19 October 1946, 14 March 1947; and evangelical-Lutheran clergymen, Wugge, 4 March 1947; and the Vicar of the evangelical Lutheran Church in Wittitz, 20 October 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

22. Willi Heinz HENDEL

Nationality:	German
Age (May 1946):	30
Civilian Status:	Unknown
Nazi Organizations:	Joined SS, May 1934 to May 1945
Military Status:	Master Sergeant, Platoon Leader, 2nd Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, and 2nd Panzer Grenadier Regiment
Place:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to subordinates. The accused stated in his extrajudicial sworn statements that on the night of 15 to 16 December 1944 JOCHHEIM, in a speech delivered to the 11th Panzer Grenadier Company, said that no prisoners of war were to be taken and that the troops were to shoot at everything. Immediately thereafter the accused assembled his platoon, reported this order, and admonished his men to especially distinguish themselves in the execution thereof. On the night of 16 to 17 December 1944 immediately before enemy contact was expected, the accused reported to members of his platoon the previous orders and stated that, "No prisoners will be taken. Everything that comes in front of our barrels will be mowed down. The 2nd Platoon must

distinguish itself" (R 352, 353, 356, 357; P-Exs 21, 22). These statements by the accused are corroborated by the extrajudicial sworn statements of SIEGMUND (R 1435; P-Ex 113) and STOKA, as well as by the testimony of Heinrich (R 363, 368-370; P-Ex 23).

SIEGMUND stated in his extrajudicial sworn statement that he would not have shot the prisoners of war on the road from Le Gleize to Stoumont on 20 December 1944 had he not recalled the speeches of TOMHART and the accused (R 1436; P-Ex 113).

evidence for defense: The accused did not take the stand.

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Werner Siegel, 26 February 1947; and Paul Linon, 6 January 1947.

Recommendation: That the findings and sentence be approved.

29. Hans HENNIGRE

Nationality:	German
Age (May 1946):	23
Civilian Status:	Unknown
Armed Organizations:	Officer SS, November 1939 to May 1945
Military Status:	Second Lieutenant, Platoon Leader, 1st Platoon, 1st Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment

Verdict:	NO
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that in the afternoon of 15 December 1944 in Blenkenheim Forest the company commander, Kramser, spoke to the entire company and, among other things, said: "Think of the bombing attacks; think of your parents and your brothers and your sisters. It will be one reckless drive. We must give no quarter; no prisoners are to be taken". Kramser had the tank commanders and platoon leaders assemble around the campfire and told them to repeat KRAMSER's order exactly to their men. Upon returning to his crew the accused repeated to his men Kramser's order concerning the shooting of prisoners of war (R 240, 241; P-Ex 14). This is corroborated to the extent that no prisoners of war should be taken by the extrajudicial sworn statements of BRIESEMUELLER (R 787; P-Ex 59) and ECKMANN (R 595, 596; P-Ex 43).

The Crossroads. ECKMANN stated in his extrajudicial sworn statement that he saw the accused at the Crossroads between 1300 and 1400 hours 17 December 1944 when the shooting of American prisoners of war took place (R 596, 597; P-Ex 43).

Stavelot. Koehler, Schneider and Flohmann testified that the accused assumed command of the 1st Panzer Company on 18 December 1944 at Stavelot when the company commander, Kramser, was wounded (R 228, 231, 234). After the accused took over the command of the company his tank passed four or five women who were watching the tanks pass. The accused's radio operator opened fire on these women, hitting two or three of them. The radio operator then turned the machine gun to the other side of the road and opened fire on some women standing there. The accused did not give the radio operator a "cease fire" order. The civilians had not engaged in any hostile actions to provoke the

shooting. The accused explained his failure to issue a "cesse fire" order by stating that it was against the general orders issued by Bremer before the beginning of the offensive (R 1004, 1005; P-Ex 78). The machine gunning of the civilians is corroborated by the testimony of two witnesses (R 921, 922, 923). BCKMANN in his extrajudicial sworn statement corroborates the accused's statement concerning the shooting of the woman in Stavelot (R 598; P-Ex 43).

Le Gleize. RUMPF stated in his extrajudicial sworn statement that in Le Gleize the accused came to him with a message to the effect that RAIPER had ordered that some prisoners of war be shot and that RUMPF was to provide the shooting detail. Pursuant to this message RUMPF furnished a shooting detail (R 740, 741; P-Ex 55). The accused, in his extrajudicial sworn statement, corroborated RUMPF's statement and added that the sergeant in charge of the execution detail reported that they had shot a lot of prisoners of war (R 1007-1009; P-Ex 78). Flohmann testified that the shooting of American prisoners of war in Le Gleize was reported to the accused (R 1420, 1423).

Evidence for Defense:

Instructions to Subordinates. The accused testified that while at Freisheim he did not make any speech to any platoons in the company (R 2181, 2182). This is corroborated by the testimony of four members of the company (R 2212, 2216, 2220, 2224). The accused specifically denied that he delivered a speech concerning the killing of prisoners of war (R 2181, 2182). The only speech he made was one concerning the tactical situation (R 2182, 2183). He denied the truthfulness of his extrajudicial sworn statement in which he mentioned RAIPER's order to shoot prisoners of war (R 2185).

The Crossroads. Lieber testified that as they passed the Crossroads the accused's tank was about 30 meters ahead of him and was not out of his view for more than 15 seconds. If any shots had been fired from the accused's tank the witness would have heard the fire (R 2586).

Stavelot. The accused denied in his testimony that any women were shot in Stavelot (R 2206-2207).

Le Gleize. Concerning the execution detail in Le Gleize, the accused testified that the detail was formed for the purpose of shooting men from the 9th Panzer Pioneer Company for preparing to desert. Miller, who was present in the command post when the order was given, testified that the accused was told to have RUMPF provide an execution detail to execute a German soldier who had removed his insignia. The accused was given a second order to form an execution detail to consist of one non-commissioned officer and five men, but nothing was said about prisoners of war in connection with this detail (R 2867-2869). He admitted that he saw the bodies of seven dead Americans behind the 1st Panzer Battalion Command Post and that he had no doubt that they had been shot (R 2209, 2210).

Retrial Interrogations. The accused testified that during the "first trial" at Schwebisch Hall, he was read the charges by Mr. Thon. Among other things, he was accused of giving GODICKE the order to shoot women in Stavelot. He denied this. Then Lieutenant Perl, who was acting as his defense counsel, succeeded in adjourning the court after severe argument with the prosecutor, Mr. Thon. He was then locked in a death cell for a few hours. Lieutenant Perl took him out of the cell a little later and questioned him about the incident in Stavelot. When the accused denied any knowledge of it, Lieutenant Perl said: "That might mean your head. The president of the court had the intention of proceeding with the case in your absence, and if you would not admit that, you will be hanged". The accused stated that he did not admit anything because he did not know anything. Lieutenant Perl then told him that possibly the trial might take place the following Monday, two days hence, and if it did not take place the accused would be hanged within 48 hours. Lieutenant Perl said that the court had the authority to try the case in writing and that the accused would not have any further

opportunity to defend himself. He did not make any statement and wrote in his cell for what was going to happen (R 2204, 2205).

Lieutenant Earl testified on redirect examination that the accused's statement was voluntary and that no force, threats, promises, or harsh, cruel or inhuman treatment was used in obtaining it. He testified that a ceremony called the "first procedure" was used (R 1002).

Sufficiency of evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism, which the accused as an officer in an essential Nazi organization actively supported. There is nothing in mitigation.

The evidence is conflicting as to the methods used in the pretrial interrogations of the accused. It was for the Court to determine whether the accused's statements made during such interrogations were voluntary and whether he was induced to state untruths. The accused's extrajudicial sworn statements, referred to above, are corroborated by several co-accused and witnesses. It does not appear that the Court assigned inappropriate probative value to the extrajudicial sworn statements of the accused. In any event, other evidence adequately establishes most of the accused's acts.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A petition for review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused, 21 January 1947; his fiancée, Gundel Konnauer, 1 and 30 December 1946; an uncle of the accused, Henrique Lemcke, 26 September 1946; and an aunt, Mrs. Helene Strak, 25 July 1946.

Recommendation: That the findings and sentence be approved.

24. Hans HILLIG

Nationality:	German
Age (by 1946):	24
Civilian Status:	Unknown
Nazi Organizations:	affen SS, February 1940 to April 1945
Military Status:	Sergeant, Personnel Carrier Driver, Communications Platoon, Headquarters Company, 1st SS Panzer Regiment
Field:	WG
Findings:	G
Sentence:	10 years, commencing 16 July 1946

Evidence for Prosecution:

Stoumont. The accused stated in his extrajudicial sworn statement that in the afternoon of 19 December 1944, while he was parked behind a house near the edge of Stoumont, PEIPER ordered him to bring for interrogation an American prisoner of war who was then guarded by a member of the accused's personnel carrier. The accused took the prisoner to PEIPER who talked to him in a foreign tongue. The prisoner only answered the first question asked by PEIPER and, when PEIPER continued talking to him, the prisoner remained mute making only a short answer at the end of this interview. PEIPER shouted to the accused to shoot the man. The accused took his machine pistol and fired a shot into the prisoner who immediately collapsed. As the prisoner lay on the ground the accused shot him once more in the temple and then returned to PEIPER and reported the execution of the order (R 1376, 1377; F-ex 105). GRUNHA stated in his extrajudicial sworn statement that a soldier from the regimental headquarters company shot a captured American soldier upon the order of PEIPER after an interrogation by PEIPER had yielded no results (R 1568, 1569; F-ex 127). This killing is corroborated by the testimony of Abeling (R 1367, 1372) and Landfried (R 1363-1366).

Evidence for Defense:

Stoumont. According to the extrajudicial sworn statement of

the accused, the shooting was carried out in obedience to the direct order of the accused's superior, PEIPER (R 1376, 1377; P-Ex 105). PEIPER, testifying in his own behalf, denied the occurrence of the entire incident (R 1950-1953).

Sufficiency of Evidence: The Court apparently concluded that the accused shot the prisoner of war in the immediate presence of high ranking officers pursuant to their specific directions.

The findings are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

25. Hainz HOFMANN

Nationality:	German
Age (May 1946):	21
Civilian Status:	Unknown
Nazi Organizations:	Staff SS, March 1943 to May 1945
Military Status:	Corporal, Gunner, 2nd Platoon, 2nd Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Flot:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Le Gleize. On 21 or 22 December 1944 anepik ordered the accused and WERNER to go with him into a house in Le Gleize to get 10 to 15 American prisoners. The accused and WERNER then participated in the shooting of these prisoners on orders of First Sergeant anepik, the platoon leader and commander of the accused's tank. These facts are brought out in the extrajudicial sworn statements of MIKOLASCHEK (R 1313; P-ex 100) and WERNER (R 1350; P-ex 103), members of the accused's tank crew.

Stoumont. The accused stated in his extrajudicial sworn statement that on the morning of 19 December 1944 he entered Stoumont and as soon as he had taken up position there Knappik, his tank commander, gave him an order to turn the turret to the left and fire at a group of men standing in front. The accused looked in that direction and saw a group of 15 to 20 American prisoners standing beside some paratroopers. So far as the accused was able to see, these Americans were unarmed. He obeyed Knappik's order and shot two or three bursts into them and saw the ones that were hit slump to the ground (R 1316, 1317; P-ex 101). This is corroborated by the extrajudicial sworn statements of MIKOLASCHKE (R 1312, 1313; P-ex 100) and WERNER (R 1348, 1349; P-ex 103).

Evidence for Defense:

Le Gleize. According to the extrajudicial sworn statements of MIKOLASCHKE and WERNER, the shooting of American prisoners in Le Gleize was pursuant to the order of the accused's superior (R 1313, 1350; P-exs 100, 103).

Stoumont. According to the accused's extrajudicial sworn statement and those of MIKOLASCHKE and WERNER, the shooting by the accused in Stoumont was in obedience to the direct order of the accused's superiors, Sergeant Knappik and Company Commander CHRIST (R 1312, 1316, 1348, 1349; P-Exs 100, 101, 103). PEIPER testified that the attack on Stoumont began at 0900 hours on 19 December 1944 (R 1945) and it was taken at 1100 hours (R 1949).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that he was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 23 December 1946. Petitions for Clemency were filed by an official of the Post Office at Bonbaden, Germany, 4 December 1946; the local office of the SPD, Bonbaden, 4 December 1946; the police station at Bonbaden, 4 December 1946; the Protestant Pastorate at Bonbaden, 4 December 1946; the family of the accused, 3 December 1946; the accused's father, August Hofmann, 6 September 1946, 12 November 1946, and 25 November 1946; the accused, 5 August 1946 and 22 September 1946; and Walter Goebler, 31 August 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

26. Joachim HOFMANN

Nationality:	German
Age (May 1946):	19
Civilian Status:	Unknown
Nazi Organizations:	Wehrmacht, October 1943 to May 1945
Military Status:	Private First Class, Personnel Carrier Driver, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Rank:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that on 17 December 1944 between 1300 and 1400 hours he reached the Crossroads. He saw 80 to 100 American prisoners of war standing in a pasture south of a house and barn on the right side of the road leading south. Nearby stood a Mark IV tank and Sergeant Neutner's personnel.

carrier was on the left side of the road. As the accused passed this personnel carrier, Bantner told the crew to get their machine guns and men ready to "bump off" the prisoners. The accused then stopped his vehicle and got out. He stood at the rear end of his vehicle along with NEVE. The accused was armed with a machine pistol. Before the firing started the crews of several vehicles were shouting: "Bump them off, bump them off". The accused fired four or five bursts, approximately 50 shots, into the prisoners, among whom were several medics. These American prisoners were surrendered and unarmed and were standing with their hands raised above their heads and were not making any attempt to escape. At the first volley all the Americans in the field fell to the ground. After the firing from the machine guns had ceased, his group leader, Sergeant Witkowski ordered the accused and others to get into the field and give mercy shots to those who were still alive. The accused and others then entered the field and saw two wounded Americans. The accused fired six or eight rounds into the heads of these two prisoners, killing them (R 648-650, 651; P-Ex 46). This incident at the Crossroads is corroborated by the extrajudicial sworn statements of SPRENGER (R 623-625, 626; P-Ex 44), JAKEL (R 664-668; P-Ex 49), and NEVE (R 669-671; P-Ex 48).

Stoumont. The accused stated in his extrajudicial sworn statement that around noon on 19 December 1944 at Stoumont he was in the company of a paratrooper named Diehle, a noncommissioned officer and a lieutenant. Other paratroopers were standing in front of a house with two American prisoners of war. The lieutenant ordered Diehle and the accused to shoot the prisoners. Pursuant to this order Diehle and the accused marched the two Americans, who were unarmed and with their hands raised in surrender, across the street where Diehle fired a burst of 15 to 20 rounds from his machine pistol. Both Americans fell to the ground but were not dead. The accused then shot a burst of three to four rounds into the head of one of them with his machine pistol and Diehle continued shooting the other (R 653; P-Ex 46).

told him that he, the accused, had shot some American prisoners of war in Stoumont (R 691; P-Ex 49).

Evidence for Defense:

The Crossroads. GOLSCHNITT testified that he was at the Crossroads about 1300 or 1400 hours 17 December 1944 and he did not see the accused there (R 2414).

Stoumont. The accused stated in his extrajudicial sworn statement that he shot the prisoners in Stoumont upon the order of the lieutenant who accompanied them and that he requested permission to take them to the church but was refused (R 653; P-Ex 46).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that he was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense council, 28 December 1946. Petitions for Clemency were filed by the accused's father, Gustav Hofmann, 13 August 1946; and Reverend Geppert, 18 September 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 2 years, commencing 16 July 1946.

27. Hubert HUBER

Nationality: Austrian
Age (May 1946): 37
Civilian Status: Unknown
Nazi Organizations: Waffen SS, April 1938 to December 1944
Military Status: Staff Sergeant, Tank Commander,
2nd Platoon, 6th Panzer Company,
1st Panzer Battalion,
1st SS Panzer Regiment
Race: A
Findings: C
Sentences: Death by hanging

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that he arrived at the Crossroads some time after 1530 hours on 17 December 1944. He dismounted from his vehicle and saw what appeared to be the dead bodies of two American soldiers lying in the pasture on the right hand side of the road. However, one of the bodies moved slightly, pulling in his hands and head so that it was apparent that he was only pretending to be dead. The accused then told this American to take off his jacket, his wrist watch, and his overboots. While the American was in the process of complying with this order, the accused shot and killed him. At the time the American was unarmed and made no attempt to escape (R 799, 800; P-EX 60).

This incident is corroborated by the extrajudicial sworn statement of HELLIG (R 1375-1377; P-EX 105) and the testimony of KELLER (R 810-811), Landfried (R 822) and Adolf Weiss (R 834).

Zimmerman testified that he recognized the accused as being one of the men who lay in the field and firing shots into the American prisoners of war who were lying on the ground (R 828-832). Bethlefs testified that the accused said that he had dismounted from his tank at the Crossroads and had entered the pasture on foot and finished up the Americans who were still showing signs of life (R 806).

Evidence for Defense: The accused did not take the stand.

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation. Austria was a co-belligerent of Germany.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A petition for Review was filed by American defense counsel, 28 December 1946. No petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

28. Siegfried JAEEL

Nationality:	German
Age (May 1946):	19
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, December 1943 to May 1945
Military Status:	Private First Class, Rifleman and Gunner, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Flot:	WG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Bullingen. The accused stated in his extrajudicial sworn statement that when he was proceeding along the road near the airfield outside Bullingen he saw a group of six or eight American prisoners of war walking on the road toward his vehicle. When the accused's personnel carrier, driven by Joachim HOPMANN, was some 10 to 15 meters from these Americans, his group leader, Sergeant Witkowski, who was riding in the

same vehicle, said: "Ready, bump 'em off". The accused then shot two or three rounds from his pistol into these surrendered and unarmed American prisoners of war. Other members of the crew also fired and the six or eight Americans fell to the ground (R 683; P-ex 49). This incident is corroborated by the extrajudicial sworn statement of Joachim HOFMANN (R 647; P-ex 46).

Between the airport and Bullingen, the men of the accused's personnel carrier, including the accused, fired into two other groups of Americans who were unarmed and surrendered and who were marching toward the rear. Each of these groups of surrendered and unarmed American prisoners of war numbered between five and eight men (R 683; P-Ex 49).

The accused further stated therein that about 1 kilometer or so beyond Bullingen, while traveling on a narrow dirt road, the crew of his vehicle shot a group of six or eight American prisoners of war. A little later they shot another group of about the same size (R 684; P-Ex 49).

All of these prisoners were unarmed and had their hands raised in a sign of surrender when they were shot (R 684; P-ex 49).

The Crossroads. At the crossroads between 1300 and 1400 hours on 17 December 1944, the accused, according to his extrajudicial sworn statement, saw approximately 60 to 80 American prisoners of war standing in the pasture. The accused's personnel carrier was halted by Beutner who spoke to Sergeant Matkowski and told him that the American prisoners of war were going to be shot. The men in the accused's personnel carrier loaded their weapons and were ready to fire at the prisoners. The accused further stated therein that after the command to fire was given, they fired approximately 75 rounds from the front machine gun. Then the accused went to the rear machine gun, loaded it, and started firing into the American prisoners. As soon as the first firing began all the American prisoners who were in the field fell to the ground. After the firing ceased, the accused walked among the prostrate American prisoners

of war who were lying in the field and shot four or five wounded victims with his pistol. He stated that he shot one round into the heart of each wounded man he found (R 685-688; P-ex 49). This incident is corroborated by the extrajudicial sworn statements of SPRANGLER (R 623-626, 640; P-Exs 44, 45), Joachim HOFMANN (R 648, 649, 650; P-ex 46), and NEVE (R 669, 670; P-ex 48).

Evidence for Defense:

Bullingen. The accused stated in his extrajudicial sworn statement that the shooting near the airfield was upon the direct order of his superior, Sergeant Witkowski (R 683; P-ex 49).

The Crossroads. The accused also stated therein that the shooting at the Crossroads was at the command of the accused's superior, Beutner (R 685, 686; P-Ex 49).

BOLISCHIEDT testified that he did not see the accused at the Crossroads on 17 December 1944 (R 2413, 2414).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that he was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 20 years, commencing 16 July 1946.

29. Bruno JUNGER

Nationality:	German
Age (May 1946):	25
Civilian Status:	Unknown
Nazi Organizations:	Written SS, January 1940 to December 1944
Military Status:	First Lieutenant, Company Commander, 6th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Race:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that on 15 December 1944 he attended a company commanders' meeting at a regimental and battalion command post in a forester's lodge in Blakenheim Forest. Major Kostachka, battalion commander, 1st Panzer Battalion, read a regimental order which in substance required the use of terror methods. After leaving this meeting the accused was aware that, where the military situation required it, prisoners of war were not to be taken. Following this meeting he went to his company and talked to his tank commanders. He told them that, in the forthcoming battle, terror methods were to be used to break enemy resistance and that, where the military situation required it, prisoners of war need not be taken. He further told his tank commanders that they should get and fight close to impress the enemy with force and fright (R 289, 290; P-Ex 17). This statement of the accused is corroborated, to the extent that no prisoners were to be taken, by the testimony of Schlessenick (R 269), Budzik (R 274), and Grabow (R 279), all of whom were assigned to the accused's company.

The Crossroads. HUBER stated in his extrajudicial sworn statement that the accused killed an American soldier in the field

at the Crossroads was to impress his battalion commander, Postsenko, and his company commander, the accused, with the fact that he was a good soldier and obeyed their orders to shoot everything that came before their guns (R 802; P-Ex 60).

Evidence for Defense:

Instructions to Subordinates. Witness Reinhold testified that the accused was his company commander; that the accused spoke to the company in a company meeting on 15 December 1944 and stated that the men were to fight without consideration for their own personal comfort. The accused did not say that prisoners of war were to be shot, nor did he say anything about treatment of civilians or the use of terror methods (R 2338-2339). The testimony of Reinhold is corroborated by the testimony of Albert Braun (R 2334-2335).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification.

However, the evidence does not indicate that he killed prisoners by his own acts or that he gave orders so to do other than rely on the general campaign plans and orders. It is believed these circumstances must be given consideration.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's brother, Asseln Junker, undated; the accused, 20 August 1946 and 24 October 1946; Manfred Wagoner, 5 September 1946; Friedrich

Kreysler, 30 August 1946; Werner Westermann and Max Brun-dogru, 20 August 1946; Adolf Unterkircher, 26 August 1946; Josef Janssen, 6 September 1946; Gert. V. D. Sählen, 5 September 1946; Eugenie Winckler, 31 August 1946; the accused's mother, Alar Junker, 26 August 1946 and 20 April 1947; Agi Junker, 31 July 1946; and Lieutenant Colonel Burton F. Ellis, Trial Judge Advocate, 27 July 1946.

Recommendation: That the findings and sentence be approved, but that the sentence to death by hanging be commuted to life imprisonment.

30. Friedel KIES

Nationality:	German
Age (May 1946):	19
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, November 1943 to December 1944
Military Status:	Private First Class, Machine Gunner, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Flee:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

The Crossroads. Joachim HOFFMANN stated in his extrajudicial sworn statement that at the Crossroads about 1300 or 1400 hours 17 December 1944 he saw the accused shooting into the prisoners of war who were marching along the road in the direction of the Crossroads. There were approximately six or eight apparently unarmed and surrendered prisoners of war in this group (R 650, 651; P-Ex 46).

JAKEL stated in his extrajudicial sworn statement that he arrived at the Crossroads at 1300 or 1400 hours 17 December 1944. He saw the accused at the front machine gun of BOEHE's vehicle at the time of the shooting (R 684-686; P-Ex 49). The accused admitted shooting prisoners at the Crossroads, but stated that it was pursuant to the direct orders of Sergeant Beutner (R 1416; P-Ex 111).

Stoumont. The accused stated in his extrajudicial sworn statement that about 1500 hours 19 December 1944 he was in Stoumont on guard duty. Sergeant Beutner ordered the accused to enter a house where he found a surrendered and unarmed American prisoner of war. Beutner ordered the accused to lead the prisoner away adding, "You know what you have to do." The accused then went to a point which was a few houses farther away and fired four to five shots at the surrendered and unarmed American prisoner of war, penetrating the victim's head and chest. The prisoner fell to the ground dead (R 1416, 1417; P-Ex 111).

On the same day as the accused passed by the command post of the 1st Platoon of the 3rd Panzer Pioneer Company he met Lieutenant Seitz who had two prisoners of war in his custody. Seitz ordered the accused and another soldier to lead these two prisoners away and shoot them. This order was carried out by the accused and the other man. The accused used his pistol and his companion used a machine pistol. The prisoners fell immediately and were left lying there (R 1417; P-Ex 111).

Evidence for Defense:

The Crossroads. The accused stated that his shooting at the Crossroads was at the direction of Sergeant Beutner (R 1416; P-Ex 111). GOLD-SCHMIDT testified that he was at the Crossroads on 17 December 1944 and he did not see the accused there (R 2414).

Stoumont. The accused stated in his extrajudicial sworn statement that the first shooting at Stoumont was on the direct order of his superior, Beutner, and the second shooting was on the order of his superior, Seitz (R 1416, 1417; P-Ex 111).

Sufficiency of Evidence: The accused obviously realized that his acts of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare were inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's father, Richard Kies, 29 September 1946; the accused's grandfather, 22 September 1946; the burgemeister of Rhaderstedt, 31 September 1946; and W. Meyer, 21 September 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 20 years, commencing 16 July 1946.

31. Gustav KNITTEL

Nationality:	German
Age (May 1946):	31
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, September 1943 to May 1945
Military Status:	Major, Commander, 1st Panzer Reconnaissance Battalion
Plea:	NO
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in one of his pre-trial unsworn statements that on the night of 15 December 1944 he assembled the company commanders, subordinate to him, for a conference at his command post near the railroad station Glaadt. The accused set forth in the statement an outline of the matters discussed which included statements that the troops were to think of relatives suffering under the bomb terror when they were dealing with enemy civilians; and that, if military necessity required it in especially compelling situations, Allied prisoners of war were to be shot (R 404; P-Ex 26).

The extrajudicial sworn statement of COBLENZ corroborates the statement of the accused that in compelling emergencies prisoners of war could be shot (R 1072, 1073; P-Ex 80).

Stavelot. In another pre-trial unsworn statement the accused stated that in the vicinity of Stavelot on 21 December 1944 his unit was cut off in a very heavily wooded area and that a group of prisoners of war came out of the woods, led by two guards. After attempting in vain to find out their units he ordered that they be shot. The unarmed and surrendered American prisoners of war were then lined up behind a nearby house. About five minutes

later the accused heard pistol shots and saw the two guards return, showing each other gold rings they had obviously taken from the prisoners. The accused contended that this order to shoot the prisoners of war was dictated by military necessity since his group was about to escape through the woods and thus was unable to take the prisoners along. The accused admitted that the motive of revenge for the cunning shooting of a personnel carrier crew in the woods shortly before this incident played a subordinate part in the action he took (R 1106-1108; P-Ex 82).

Evidence for Defense:

Instructions to Subordinates. Goltz testified that the 1st Panzer Reconnaissance Battalion was assigned to the 1st SS Panzer Division and received its orders from the division; that during the conference of the commanders the accused said nothing regarding prisoners of war except that prisoners of war would be taken back to the division as soon as possible. The accused did not say anything about prisoners of war or Belgian civilians being shot, and Goltz does not remember whether the accused said anything about shooting prisoners of war under special military circumstances (R 2115, 2116).

Stavelot. Gernt testified that the accused was in a command post in a cellar of a house one kilometer west of Stavelot all day on 31 December 1944 (R 2918, 2919).

Sufficiency of Evidence: There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism during the counteroffensive, which the accused as a field grade officer in an essential Nazi organization actively supported.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused, 6 March 1947.

Recommendation: That the findings and sentence be approved.

Nationality:	German
Age (May 1946):	20
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, August 1944 to May 1945
Military Status:	Private First Class, Radio Operator, 2nd Platoon, 1st Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Wanne. The accused stated in his extrajudicial sworn statement that about mid-afternoon 31 December 1944 at Wanne, Belgium, Sergeant BERSIN came to the quarters in which the accused was residing and stated that every male civilian had to be shot. He gave the whole crew an order to search for and shoot male civilians. BERSIN pointed to the accused and told him to come along. When BERSIN and the accused went to a house, a man of approximately 40 to 50 years of age approached them with two caps in his hand. BERSIN asked him what kind of caps he had. When the man replied that they were forest wardens' caps, BERSIN hit him. BERSIN then ordered the accused to shoot the man. The accused took the man down the street toward the church and into the cemetery, where he fired two shots into the man's back. The civilian fell down with a cry and the accused went back to the street (R 1160-1162; P-Ex 87).

According to the extrajudicial sworn statement of BERSIN, the accused led BERSIN and another soldier to an open square and then inside a house where there was a Belgian civilian about 50 years old. The accused and the other soldier took the civilian out, but BERSIN did not know what they did with this man (R 1178; P-Ex 89).

Following this incident BERSIN ordered the accused to shoot another civilian who was coming toward him. The accused led this man to a farm

approximately across from the entrance to the cemetery and shot him once in the back. The victim yelled and fell to his knees. The accused's pistol jammed. At that moment TRETTIN arrived with his pistol, and the accused asked TRETTIN to finish him off. TRETTIN then shot the man and reported to the accused that the man was dead (R 1161; P-Ex 87). The killing of this civilian is corroborated by the extrajudicial sworn statement of TRETTIN (R 1172, 1173; P-Ex 88).

Evidence for Defense:

Wanne. The accused stated in his extrajudicial sworn statement that he shot the first civilian in Wanne when given the direct order to do so by his superior, Sergeant BERSIN. The direct order was given to him after he had protested to BERSIN that the man was too old to be shot (R 1161; P-Ex 87). The second civilian was shot by him on order from BERSIN, given to him after he had completed the first shooting (R 1161; P-Ex 87).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of unarmed civilians was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of civilians in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused's father, Karl Kotzur, 6 February 1947.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

33. Fritz KRAMER

Nationality:

German

Age (May 1946):	40
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, September 1939 to May 1945
Military Status:	Brigadier General, Chief of Staff, Sixth SS Panzer Army
Plea:	NG
Findings:	G
Sentence:	10 years, commencing 16 July 1956

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that during the whole period of the Ardennes Offensive, 16 December 1944 to 20 January 1945, and also during its preparation, he was Chief of Staff of the Sixth SS Panzer Army. In this capacity he had to draft or prepare orders which went to subordinate units after being signed by the Army Commander DIETRICH. Thus, all orders originating from the Sixth SS Panzer Army had to go through his hands. Prior to the Ardennes Offensive, several orders went from Army to corps, including the I SS Panzer Corps under the command of PRIESS. The largest order was the field order which contained all tactical and technical details. It consisted of about thirty typewritten pages and was distributed to I SS Panzer Corps between 6 and 10 December 1944. There were a number of smaller orders issued. On about 14 December 1944, an Army Order of the Day went to the I SS Panzer Corps to be read and made known to the troops immediately prior to the offensive. The field order and Army Order of the Day were signed by DIETRICH in person. In the field order, as well as in the Army Order of the Day, it was stated, among other things, that the Maas River had to be reached as quickly as possible. The Army Order of the Day stated that the units should not be concerned with prisoners of war (R 136, 139; P-Ex 6).

PEIFER stated in his extrajudicial sworn statement that he was nearly certain that it was expressly stated in the Army Order of the Day that prisoners of war must be shot where the local conditions of combat required it.

(R 163; P-Ex 11). GRUHLE in his extrajudicial sworn statement corroborates the fact that the Army Order of the Day directed that Allied prisoners of war must be shot, if necessary, in very compelling situations (R 1567-1569; P-Ex 127).

Evidence for Defense:

Instructions to Subordinates. The accused testified that the field order signed by DIETRICH on 8 December 1944 consisted of 30 typewritten pages and contained the usual tactical information pertaining to communications, usage of troops, commitments, Army traffic regulations, and a special order pertaining to supplies. The special order was signed by the accused (R 1665). The field order contained a paragraph to the effect that all loot and prisoners of war were to be rapidly collected and for that purpose corps was to attach special units to advance detachments and use all empty convoys. The collection of booty and prisoners of war was not one of the tasks of the forward units. Prisoners of war were to be collected by directing them back to prisoner of war collecting points located along the routes of advance (R 1670-1672).

Besides the Army Order of the Day, there was an order of the day from Army Group "B" and one from the Commander-in-Chief of the western front. The Army Order of the Day was an appeal to the troops to fight without sparing themselves and contained no binding directives (R 1672). On 20 or 21 December 1944 one of the staff officers heard about the shooting of American prisoners of war in a report over the radio from Calais. Nothing was heard concerning the shooting of civilians (R 1686). A radio message was sent to the effect that the Commander-in-Chief prohibited actions or conduct in violation of international law. On 26 December 1944, the 1st SS Panzer Division reported that no prisoners of war had been shot in its sector. Front line liaison officers reported that they had not seen bodies of American prisoners of war who were shot in violation of international law (R 1687).

Neither the Army Order of the Day nor any other order contained a statement that prisoners of war were to be shot even though statements by DIETRICH, FELPER, and GRUHLE are to the contrary (R 1694).

Warning, Chief of Staff of the LXVII Corps, attached to the Sixth SS Panzer Army, testified that he talked with the accused between 6 and 10 December 1944 about the impending offensive and that nothing was said about prisoners of war (R 1720). Shortly thereafter he received an order signed by the accused in which it was stated that the mistreatment of prisoners of war was prohibited (R 1720, 1721).

Staudinger, Artillery Commander, I SS Panzer Corps, testified that the accused enjoyed a very good reputation; that he was diligent, able, correct, and severe with his staff; that he had a good reputation with the troops; and that he had a very good manner of handling the requests and requirements which came from his men (R 1713).

Ziemssen, G-3 of the 1st SS Panzer Division, testified that before the start of the offensive the division received from Army an order signed by the accused to the effect that prisoners of war were to be treated decently, in accordance with the provisions of the Geneva Convention (R 1777, 1778).

Lehmann, Chief of Staff of the I SS Panzer Corps, testified that he spoke with the accused about prisoners of war and traffic regulations. As a result an order was drawn stating that prisoners of war should be collected at ammunition and field dumps and taken back in empty convoys (R 1856).

Moyer, first general staff officer of the 12th SS Panzer Division, testified that on 7 December 1944 he received an order signed by the accused stating that prisoners of war were to be treated well and were to be evacuated to the rear (R 1872).

Pretrial Interrogations. The accused testified that he was interned in Schwaebisch Hall, handcuffed, shackled and required to remain in one cell for three hours. Then he spent 20 to 24 hours in a so-called "punishment cell." He was forced to stand at attention for about two hours during his first interrogation. He further testified that he was told during his first interrogation, "You are a war criminal and will be treated as such. We won't put on a show of trial for every German. We have enough ways and means to get rid of you in a quiet manner. If you are in the same

boat with the Nazi General Dietrich, then you will have to pay the consequences." Later, he was treated very well (R 1677, 1678). Cross-examination developed that he was handcuffed when in the cell, but not shackled (R 1692).

Lieutenant Perl testified that when he interrogated the accused at Schwaebisch Hall, he did not require him to stand at attention for two hours. He further testified that he did not state to the accused that "We have enough ways and means to get rid of you in a quiet manner" (R 2931-2932).

Sufficiency of Evidence: The evidence is conflicting as to the methods used in the pretrial interrogations of the accused. It was for the Court to determine whether the accused's statements made during such interrogations were voluntary and whether he was induced to state untruths. The accused's extrajudicial sworn statement, P-Ex 8, referred to above, is corroborated by two co-accused. It does not appear that the Court assigned inappropriate probative value thereto. In any event, the conclusions of the Court are adequately supported by other evidence.

The findings and sentence are warranted by the evidence. There is nothing in mitigation. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the Chief Historian, ETC, S.L.A. Marshal, undated.

Recommendation: That the findings and sentence be approved.

34. Werner KUEHN

Nationality:	German
Age (May 1946):	26
Civilian Status:	Unknown
Nazi Organizations:	Warfen SS, November 1937 to May 1945
Military Status:	Second Lieutenant, Platoon Leader, 3rd Platoon, 9th Panzer Pioneer Company, 1st Panzer Regiment
Place:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Luttrebois. The accused stated in his extrajudicial sworn statement that on the morning of 31 December 1944, at Luttrebois, Belgium, he occupied a house in which there were Belgian civilians, one of whom was a young man of 25 to 30 years of age who wore a yellow scarf and was suspected of being a spy or a partisan. During the morning the accused had asked this civilian twice to get him a bucket of water and was met with indifferent refusal. Later, a German soldier came into the room and said that some Belgian civilians were standing outside waiting to be shot. The accused remarked that the man with the yellow scarf should also be shot and he was accordingly led outside by the German soldier (R 1501, 1502; P-Ex 122).

Hoppe, a soldier assigned to the accused's company, testified that the accused gave an order to a Belgian civilian to bring a bucket of water and became angry when the civilian did not comply with his directions. The accused motioned to the civilian to follow him into the kitchen where he picked up an SS man. The three left the house and all was quiet for about three or four minutes. Then the accused came back and said that they had "bumped him off" (R 1495). Two witnesses testified that a Marcel Colson was killed by a German who was identified as the accused (R 1010-1027).

Evidence for Defense: The accused did not take the stand.

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Dr. Kleininger, 14 May 1947; the accused's parents, 17 April 1947; the accused, 20 July 1947 and 10 April 1947; the accused's mother, Melanie Kuhn, 3 November 1946;

Belgian civilians were standing outside waiting to be shot. The accused remarked that the man with the yellow scarf should also be shot and he was accordingly led outside by the German soldier (R 1501, 1502; P-Ex 122).

Hoppo, a soldier assigned to the accused's company, testified that the accused gave an order to a Belgian civilian to bring a bucket of water and became angry when the civilian did not comply with his directions. The accused motioned to the civilian to follow him into the kitchen where he picked up an SS man. The three left the house and all was quiet for about three or four minutes. Then the accused came back and said that they had "bumped him off" (R 1495). Two witnesses testified that a Marcel Colson was killed by a German who was identified as the accused (R 1515-1527).

Evidence for Defense: The accused did not take the stand.

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Dr. Kleininger, 14 May 1947; the accused's parents, 17 April 1947; the accused, 20 July 1947 and 10 April 1947; the accused's mother, Melanie Kuhn, 3 November 1946; the Landesbischof of the Protestant Church of Thuringia, 4 September 1946; Dr. Ludwig Bock, 20 August 1946; and the mayor of Saalfeld, 13 August 1946.

Recommendation: That the findings and sentence be approved.

35. Oskar KLINGELHOEFER

Nationality:	German
Age (May 1946)	28
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, August 1934 to May 1945
Military Status:	Captain, Commander, 7th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that on 15 December 1944 he attended a meeting of company commanders and that at this meeting Foetschke, 1st Panzer Battalion Commander, gave some orders in FEIPER's presence one of which stated that prisoners of war were not to be taken. FEIPER made the comment that situations can arise in which no prisoners of war can be taken. The company commanders were cautioned that the order was to be kept secret and were then dismissed from the meeting with the direction to pass the order orally to their platoon leaders and through them to the troops. The accused passed this order on to his platoon leaders and reminded them of its secret character (R 298-300; P-Ex 18). The transmittal of the order that no prisoners of war were to be taken is corroborated by the extrajudicial sworn statements of MUNKEMER (R 317, 318; P-Ex 19), REHAGEL (R 589-591; P-Ex 42), and SIPTROTT (R 561, 562; P-Ex 39), all of whom were assigned to the accused's company.

FLEPS, a member of the accused's company, stated in his extrajudicial sworn statement that even before 13 or 14 December 1944 the accused assembled the company in an inn and explained to them that a big offensive was just ahead; that they must fight cruelly in order to spread fright among the enemy; and that they were to take no prisoners. Again on the evening of 15 December 1944 the accused assembled the company and stated

that they should take no prisoners of war (R 540; P-EX 38). GLOTZ, a member of the accused's company, stated in his extrajudicial sworn statement that he learned of the attitude regarding prisoners from the accused's speech before the offensive (R 574; P-EX 41).

The Crossroads. Ehrhardt, the accused's tank driver, testified that the accused learned when he was in Ligneuville that members of his company fired at prisoners of war at the Crossroads and that the accused passed the Crossroads at 1300 hours on 17 December 1944 while prisoners of war were being assembled (R 2610-2617).

Evidence for Defense:

Instructions to Subordinates. Otto testified that Foetschke, at the company commanders' meeting which was attended by the accused, gave no order concerning treatment of prisoners of war (R 2098).

Ehrhardt testified that the accused, before the start of the offensive, assembled the company and gave them an orientation concerning motor vehicles and driving in the winter in the mountains. Nothing was said about shooting prisoners of war, nor was it hinted that prisoners of war were to be shot (R 2392). At the assembly of the company in Blankenheim Forest on 15 December 1944, no speeches were made (R 2393). He discussed the offensive with the accused and at no time did he say anything about any secret orders that prisoners of war were to be shot (R 2393). The witness was the chief driver for the accused and when the witness took prisoners of war, the accused never said anything about an order to shoot them (R 2394). The testimony of Ehrhardt, that no speeches concerning the shooting of prisoners of war were made by the accused, is corroborated by the testimony of Mulling (R 2297, 2298) and Schranz (R 2303).

The Crossroads. Ehrhardt testified that the accused was not present at the Crossroads when members of his company fired at prisoners of war (R 2617).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders

present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification.

However, the evidence does not indicate that he killed prisoners by his own acts or that he gave orders so to do other than relay the general campaign plans and orders. It is believed these circumstances must be given consideration.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's wife, Ruth Klingelhofer, 13 February 1947, 15 December 1946 and 3 August 1946; Helmut Rehnisch, 30 September 1946; Edith Burig, 27 August 1946; Edeltraut Nowack, 27 August 1946; his mother-in-law, Margarethe Bendixen, 25 August 1946; the accused, 17 August 1946; his mother, Margarete Klingelhofer, 3 August 1946; and Wilhelm Schuchmann, 3 September 1946.

Recommendation: That the findings and sentence be approved, but that the sentence to death by hanging be commuted to life imprisonment.

36. Erich MAUTE

Nationality:	German
Age (May 1946):	24
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, May 1940 to May 1945
Military Status:	Sergeant, Medic, 1st Platoon, 9th Panzer Pioneer Company, 1st SS Panzer Regiment
ries:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

La Gleize. RUFF, Commander, 9th Panzer Pioneer Company, stated in his extrajudicial sworn statement that on the night of 21 December 1944, in La Gleize, HANCOCK instructed him to furnish a shooting detail as HANCOCK had ordered that some prisoners of war be shot. RUFF went to the cellar of a house where some of his men were and said that he needed some men to shoot prisoners of war. The accused and three or four other men then emerged from the cellar. RUFF ordered the accused, who was the only sergeant in the group, to take the men to the church where he would receive instructions from someone in the 1st Panzer Company (R 740; P-Ex 55).

Joachim HOPFARTH stated in his extrajudicial sworn statement that on the evening of 21 or 22 December 1944, in La Gleize, RUFF walked into the cellar of a house and asked for some men to shoot prisoners of war. The accused and three or four other men of the same company left with RUFF, armed with pistols and machine guns. The accused returned in 20 or 30 minutes and said that they had "burped off" some prisoners (R 656; P-Ex 46). The formation of this shooting detail in La Gleize is corroborated by the extrajudicial sworn statements of HANCOCK (R 1447-1449; P-Ex 115) and HANCOCK (R 1007-1009; P-Ex 76).

Evidence for Defense:

La Gleize. Bath testified that he was with the accused at the time in question and that RUFF did not talk to the accused in La Gleize on 22 December 1944 or mention any prisoner of war shooting detail (R 2913, 2914). Another witness, Hopp, testified that the accused was not a member of the shooting detail of which the witness was a member. This detail was formed to execute a German deserter (R 2976-2980).

Sufficiency of Evidence: The Court might well have concluded that the accused willingly complied with the general request of RUFF for some men to form a shooting detail and that there was no element of compulsion in such request. It is apparent from the evidence that RUFF was not present at the place where the shooting was carried out and there is no absence of evidence that any other superior was present and gave specific directions

to shoot. Moreover, the Court may have taken into consideration the evidence indicating that the accused, as the ranking noncommissioned officer, was in charge of the detail. The Court was justified in concluding that the accused failed to meet the burden of proof with respect to superior orders required by the pertinent authorities discussed in Section V, supra.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused's grandfather, Hermann Maute, 19 September 1946.

Recommendation: That the findings and sentence be approved.

37. Arnold MIKOLASCHKE

Nationality:	German
Age (May 1946):	20
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, June 1943 to May 1945
Military Status:	Private First Class, Radio Operator, 2nd Platoon, 2nd Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Flee:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Statement. The accused stated in his extrajudicial sworn statement that on the morning of 19 December 1944, at Stoumont, he observed 12 to 15 apparently unarmed American prisoners of war standing with their hands behind their heads guarded by two or three German infantry soldiers. The accused fired two or three bursts from his machine gun into these prisoners of war. He saw the prisoners whom he had hit slump to the ground but he did not know which prisoners he had hit nor which prisoners were hit by Heins HOFMANN, who was also firing (R 1312, 1313; P-Ex 100). This killing

is corroborated by the extrajudicial sworn statements of HEINE HOFFMANN

(R 1316, 1317; P-Ex 101) and WERNER (R 1348, 1349; P-Ex 103).

Huebler testified that he saw two Americans fall as a result of the firing from the tank in which the accused was riding (R 1319, 1320).

Evidence for Defense:

Stoumont. The accused explained in his extrajudicial sworn statement that he fired at the prisoners in Stoumont in obedience to orders from his superior. His platoon leader, Knappich, contacted the company commander, CHRIST, and asked what disposition was to be made of the prisoners of war and CHRIST replied, "Bump them off." Knappich gave the accused the order to turn his machine gun toward the prisoners and to fire (R 1312, 1313; P-Ex 100).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that he was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

38. Anton MOTZHEIM

Nationality:	German
Age (May 1946):	22
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, April 1942 to May 1945
Military Status:	Sergeant, Platoon Leader, 2nd Platoon, 12th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer

Plea: NG
Findings: G
Sentence: Death by hanging

Evidence for Prosecution:

Honsfeld. The accused stated in his extrajudicial sworn statement that he entered Honsfeld on the morning of 17 December 1944. The vehicle in which the accused was riding stopped and an American soldier suddenly appeared with his hands extended to his sides but not over his head. The accused assumed that the American soldier wanted to surrender. He was about five to eight meters from the American and did not see any weapon upon his person. Remembering the order of Sergeant Thiele, his company commander, not to take prisoners, the accused fired a burst of three or four shots with his machine pistol and the American slumped in a lifeless manner to the ground (R 884; P-Ex 67). SIEGMUND stated in his extrajudicial sworn statement that it was generally known that the accused shot prisoners of war (R 1440; P-Ex 113).

Evidence for Defense:

Honsfeld. The accused testified that the shooting of the soldier in Honsfeld took place during the course of a heavy air attack. He had jumped down from his vehicle with a machine pistol in his hand. When he reached the ground, he saw an American soldier and shot him. He did not shoot on anyone's orders nor did he conclude that the soldier had surrendered. He shot because of the excitement of the action, enemy resistance, the heavy air attack, and the sudden appearance of the soldier (R 2437).

Pretrial Interrogations. The accused further testified that the assertion in his extrajudicial sworn statement that he assumed the American wanted to surrender is incorrect (R 2438). He testified that he wrote this portion of the statement, which is false, in Schwaebisch Hall under extremely difficult conditions. He had been locked up for three months in a cell together with three or four other soldiers without any opportunity to move. On 19 March 1946 he was interrogated for the first time. Mr. Then came in and said that he, MOTZHEIM, had shot a prisoner of war (R 2438, 2439). When

the accused denied this, he was asked to make a sworn statement to that effect, which he did. Mr. Thon then became very angry and beat the accused (R 2439). The questioning lasted for one-quarter hour and a short while later Lieutenant Perl and Mr. Thon appeared. Lieutenant Perl was introduced as a Belgian liaison officer and addressed the accused in French and asked his name. Then Lieutenant Perl spoke in broken German and said they had now found the man who had killed the prisoners. Lieutenant Perl and Mr. Thon then beat the accused for one-half hour (R 2439). When the accused still refused to admit any shooting, Lieutenant Perl kicked him four times in his sexual parts and Mr. Thon kicked him on the leg. This lasted for one-half hour. A black hood was then placed over his head and he stood in the corner of his cell for an hour. At 1600 hours the next day he was taken to a cell and Mr. Thon came and told him there was only one chance. If he did not say that he shot a prisoner of war or had an order to do so, he would be hung. Sergeant Fluschke was brought in and said that he had told them that the accused had said to him that he shot a prisoner of war in Stoumont. Mr. Thon then gave the accused a sheet of paper and a pencil and he started writing (R 2440). The accused further testified that the words in the statement to the effect that he assumed the prisoner wanted to surrender were not his words, but those of Mr. Kirschbaum, the interpreter (R 2441).

In their testimony, interrogators Perl and Thon denied that they beat the accused (R 2936, 2941, 2942). Kirschbaum testified that he did not supply the expression "I assume that he wanted to surrender" in the accused's extrajudicial sworn statement (R 2926). Mr. Elowitz, who participated in the interrogation at Schwaebisch Hall, testified that the accused said he had shot an American who was attempting to surrender (R 2924, 2925). He further testified that he did not beat the accused or cause him to be beaten (R 2924).

Sufficiency of Evidence: The Court apparently concluded that the accused killed a surrendered prisoner of war as a willing supporter of the campaign plans and orders. However, it appears that fighting was heavy and that the accused may well have been confused and shot the victim as an incident of poor judgment.

The evidence is conflicting as to the methods used in the pretrial interrogations of the accused. It was for the Court to determine whether the accused's statement made during such interrogations was voluntary and whether he was induced to state untruths.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's father, Gerhard Motsheim, 13 June 1947 and 30 August 1947; Paul Potz, 8 June 1947; Bishop A. J. Muench, 13 June 1947; Theodor von Koler, 11 September 1946, and 24 August 1946; his parents, Gerhard and Josefine Motsheim, 21 August 1946; H. Jacobs, 20 August 1946; Dr. Nailis, 20 August 1946; and Bishop of Aachen, undated.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 10 years, commencing 16 July 1946.

39. Erich MUNKEMBER

Nationality:	German
Age (May 1946):	25
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, June 1940 to May 1945
Military Status:	Second Lieutenant, Platoon Leader, 3rd Platoon, 7th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Flea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extra-judicial sworn statement that on 16 December 1944 he transmitted to his tank commanders the substance of the orders which he had received on the same day from KLINGELHOEFER, his company commander, that prisoners of war would be turned over by the troops who captured them and evacuated, but that situations could arise where prisoners of war were to be shot (R 317, 318; P-Ex 19).

wiesberger testified that the accused's instructions to his tank commanders included instructions that no prisoners were to be taken (R 322). CLOTTEN stated in his extrajudicial sworn statement that he would have interferred with the shooting of American prisoners at the Crossroads by his tank crewman, Beck, but for the orders of the accused, his platoon leader, to the effect that he did not wish prisoners of war to be taken (R 574; P-Ex 41).

Evidence for Defense: The accused did not take the stand.

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

However, the evidence does not indicate that he killed prisoners by his own acts or that he gave orders so to do other than relay the general campaign plans and orders. It is believed these circumstances must be given consideration.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Dr. Hans Hertkern, 3 December 1946; wife of the accused, Ilse Munkemer, 15 September 1946 and 11 September 1946; Ludwig Panzer, 2 September 1946; mother of the accused, Kunigunde Munkemer, 26 July 1946; Georg Seelmann, 1 September 1946; Hans Luttes, 6 September 1946; A. Schmitt, 1 September 1946; Fritz Meusel, 30 August 1946; H. Fleischmann, 27 August 1946; Mr. Schwalb, 30 August 1946; and J. Folger, 18 August 1946.

Recommendation: That the findings and sentence be approved, but that the sentence to death by hanging be commuted to life imprisonment.

40. Gustav NEVE

Nationality:	German
Age (May 1946):	20
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, January 1943 to May 1945
Military Status:	Private First Class, Personnel Carrier Driver, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Fla:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that between 1300 and 1400 hours 17 December 1944 he arrived at the Crossroads. After making a left turn in a southerly direction, he saw a house and a fenced in pasture in front of which Boutner's personnel carrier was parked. Boutner gave a hand signal and the vehicle in which the accused was riding stopped. About 80 to 100 unarmed and surrendered American prisoners of war were standing ^{/in} the above-mentioned pasture. The accused dismounted and placed himself at the end of his vehicle with a fast firing rifle. About 15 minutes later everyone opened fire with their weapons. The shooting lasted for about ten minutes and then the accused and others went into the pasture among the American soldiers who had fallen to the ground. Some were turning and twisting. The accused aimed at about eight or ten of these men who were still alive and shot them (R 669-671; P-Ex 48). This account is corroborated by the extrajudicial sworn statements of Joachim HOFMANN (R 648-650; P-Ex 46), SPRENGER (R 623-625; P-Ex 44), and JAKEL (R 685-688; P-Ex 49).

Evidence for Defense:

The accused stated that the shooting of the prisoners of war at the Crossroads was upon the direct orders of his superiors. Sergeants Boutner and Witkowski (R 669-671; P-Ex 48).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that he was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused's father, Franz Neve, 7 August 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 20 years, commencing 16 July 1946.

41. Paul Hermann OCHMANN

Nationality:	German
Age (May 1946):	32
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, April 1936 to May 1945
Military Status:	Master Sergeant, Headquarters Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Ligneville. The accused stated in his extrajudicial sworn statement that on 17 December 1944 just before darkness set in he saw eight American prisoners of war standing on the right side of the road, facing in a southerly direction, in front of a house near the entrance to Ligneville. The accused requested Lieutenant Hering, 9th Panzer Pioneer Company, who was standing nearby, to furnish him a gun to help shoot the prisoners.

prisoners. Hering assigned Private Suess to go with the accused and the two of them led the prisoners across the road to a point about 100 meters along the road in the direction from which they had come near a cemetery. These prisoners were then killed by the accused and Suess (R 909, 900; P-Ex 75).

The shooting of these eight prisoners is corroborated by the testimony of an eyewitness who lived a few meters from where the incident occurred. The witness testified that the shooting took place about 1630 hours 17 December 1944 (R 966-978). Another witness who lived in the vicinity testified that eight prisoners of war in American uniforms were killed in the locality and vicinity of the first witness's house (R 988, 989). The fact that the accused asked for and was assigned Private Suess to help him shoot some prisoners of war is corroborated by the testimony of Fransee, 9th Panzer Pioneer Company, who was in the vehicle with Hering at the time (R 979-984).

Evidence for Defense:

Ligneuville. Walla testified that the accused was with him near the entrance to Ligneuville on 17 December 1944 from 1300 to 1730 hours and that they rode in the same vehicle (R 2604, 2605). In Ligneuville, about 1730 hours, the accused sent Walla to a house in town with eight prisoners (R 2605). Later, the accused brought an additional eight prisoners of war to the same house and the wounded were treated and bandaged there by the medics (R 2608).

Buchheim, a second lieutenant in the Headquarters Company, testified that the accused never reported to him that he had shot eight prisoners of war (R 2072).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused wholeheartedly supported such plans and orders for the campaign and that there was no military excuse or justification

the findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

42. Joachim PEIFER

Nationality:	German
Age (May 1946):	31
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, October 1934 to May 1946
Military Status:	Lieutenant Colonel, Commander, Combat Group Peiper, Commander, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution: In addition to the evidence hereinafter set forth, reference is made to Section III, Summary of Evidence, supra.

Instructions to Subordinates. The accused stated in one of his extrajudicial sworn statements that the Army Order of the Day provided that a wave of terror and fright was to precede the attacking troops; that the German soldier was to recall the victims of the bombing terror; and that the enemy resistance was to be broken by terror. The accused also stated that he was nearly certain that the Army Order of the Day expressly provided that prisoners of war were to be shot where the local conditions of combat required it. A regimental order was drawn by GRUHLE, his adjutant, based on information received from the division commander and from the Army Order of the Day. The regimental order included substantially the same wording concerning prisoners of war as existed in the Army Order of the Day. The regimental order was transmitted to the battalion commanders (R 162-166; P-Ex 11).

The extrajudicial sworn statements of DIEFFENTHAL (R 1299-1301; P-Ex 98), GRUHLE (R 1567-1569; P-Ex 127), SIEVERS (R 387-391; P-Ex 25),

HENNECKE (R 239-242; P-Ex 14), FISCHER (R 174-176; P-Ex 13), KLINGELHOEFER (R 298-301; P-Ex 18), and RUMPF (R 732-742; P-Ex 55) corroborate the portions of the statement by the accused regarding the contents and transmission of the regimental order.

Honsfeld. Elements of Combat Group Peiper entered Honsfeld in the early morning of 17 December 1944 (R 1921). Two enlisted men, Technician Fifth Grade Morris and Private White, of the 612th Tank Destroyer Battalion, U. S. Army, stated in their extrajudicial sworn statements that they were in Honsfeld on the morning of 17 December 1944. Just as it was getting daylight a German tank started firing at a house. Later a group of American soldiers came out of the house and approached the tank unarmed and with their hands raised in surrender. As the group approached the tank the crew opened fire upon them and they all fell to the ground. After the first burst of fire the German tank commander motioned to and ordered those still alive to surrender. Those who were not hit by the first burst again attempted to surrender and were shot down as they approached (R 907-910; P-Exs 71, 72).

Another American enlisted man, Sergeant Wilson, stated in his extrajudicial sworn statement that he was with a group of Americans in a house in Honsfeld about 0800 hours 17 December 1944 when a German tank started firing at the house. The lieutenant in charge of the Americans surrendered and the group was ordered out of the house and lined up in a row facing the house. A German corporal started shooting the Americans and after two had fallen to the ground Sergeant Wilson escaped by running across country (R 901-905; P-Ex 70).

Chenoux. ZWIGART stated in his extrajudicial sworn statement that in Chenoux the accused and DIEFENTHAL were sitting in ZWIGART's personnel carrier. ZWIGART shot an American prisoner of war, who was surrendered and unarmed, in the presence of the accused and under circumstances which obviously indicated ZWIGART's intention to the accused. The accused took no action to prevent the incident (R 1288-1293; P-Ex 97). The extrajudicial sworn statements of DIEFENTHAL (R 1299-1301; P-Ex 98) and

FRIEDRICHS (R 1390-1396; P-Ex 108), and the testimony of Rineck (R 1263-1265), Assenmacher (R 1271-1276), and Plohm (R 1280) corroborate the foregoing incident in Cheneux.

La Gleize. The accused stated in an extrajudicial sworn statement that while in La Gleize he had a conversation with Poetschke, DIEFENTHAL, and Van Westerhagen concerning what was to be done with American prisoners of war if aid was not received and they had to fight to the finish. It was determined that prisoners would be shot (R 1553-1556; P-Ex 125).

MOTZHEIM stated in his extrajudicial sworn statement that upon arriving in La Gleize he heard Poetschke report to the accused the capture of two prisoners of war. The accused in an indifferent and disdainful manner said, as to the disposition of the prisoners, "As usual" (R 884-886; P-Ex 67).

The accused ordered the formation of a detail for shooting prisoners of war at La Gleize, according to the extrajudicial sworn statements of RUMPF (R 732-741; P-Ex 55), HENNECKE (R 1004-1010; P-Ex 78), and HEISER (R 1447-1449; P-Ex 115).

Stoumont. The accused stated in his extrajudicial sworn statement that at Stoumont on 19 December 1944 he gave HILLIG an order to shoot an American prisoner of war (R 1553-1556; P-Ex 125). This is corroborated by the extrajudicial sworn statement of HILLIG (R 1375-1377; P-Ex 105), who carried out the order and killed the prisoner; and by the extrajudicial sworn statement of GRUELE (R 1567-1569; P-Ex 127), who stated that he saw the body and heard from the accused himself that the prisoner was shot on the accused's order. It is also corroborated by the testimony of Landfried (R 1364) and Ebeling (R 1367-1372).

GRUELE stated in his extrajudicial sworn statement that the accused told him that he had ordered an American prisoner of war shot and killed at Stoumont after an unsuccessful interrogation (R 1568-1569; P-Ex 127).

SPRENGER stated in his extrajudicial sworn statement that at Stoumont he saw SIEVERS talking to the accused; that about a meter and a half away from the two were three surrendered and unarmed prisoners of war standing with their hands clasped behind their heads, facing SIEVERS and the accused; and

that SIEVERS spoke to the accused and then took out his pistol and killed the three American prisoners of war. These prisoners did nothing to provoke this shooting (R 618-634; P-Ex 44).

Petit Thier. The accused stated in one of his extrajudicial sworn statements that at a small castle in the neighborhood of Petit Thier on 10 January 1945 an American prisoner of war was brought to the command post suffering from third degree frost bite; that the prisoner was so near death that he looked like a mummy; that the regimental surgeon, SICKEL, suggested a mercy shot and the accused agreed (R 1554-1556; P-Ex 125). SICKEL stated in his extrajudicial sworn statement that he ordered WICHMANN to shoot the prisoner (R 1560-1562; P-Ex 126). WICHMANN admitted in his extrajudicial sworn statement that he shot the prisoner (R 1533-1539; P-Ex 123).

Gerardy testified that he found the corpse of an American soldier near the chapel at Petit Thier (R 1547).

Evidence for Defense:

Instructions to Subordinates. After a conference with the division commander, Mohnke, on 14 December 1944, the accused returned to his command post and ordered his adjutant to call a conference of commanders for 1600 hours. The regimental command post was located in a forester's lodge in Blankenheim Forest. The same lodge also contained the command post of the commanding officer of the 1st Panzer Battalion, Major Poetschke; and the commanding officer of the 68th Antiaircraft Battalion, Major Wolf (R 1903-1904). The commanders of the 1st and 2nd Panzer Battalions, Major Poetschke and Lieutenant Colonel Von Westerhagen respectively, Captain DIEFENTHAL, commander of the 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment, Captain Schlett, commander of the 2nd Artillery Battalion, Major Wolf, Commander of the Antiaircraft Battalion, and Lieutenant Krause, the signal officer, and the regimental adjutant were present at the conference. The division field order was read and subsequently the conference concerned itself with purely tactical matters (R 1905).

The division field order contained a paragraph providing that the armored spearhead was not to worry about prisoners of war because this was the

job of the infantry following. It further stated that prisoner of war collecting points were to be set up at ammunition and fuel dumps; that armed civilian resistance was to be expected; and that such resistance by civilians had to be broken (R 1908).

On 15 December 1944 accused was ordered to the I SS Panzer Corps Command Post for a conference. At this conference division and regimental commanders and Colonel Skorzeny were present. PRIESS spoke of the speech made by Hitler at Bad Nauheim and read the Army Order of the Day, which was an appeal to German soldiers. It contained nothing concerning prisoners of war or civilians. Skorzeny was present and Operation Grief was explained. It was to precede this group and create panic and confusion (R 1908, 1909). At the conclusion of this conference the accused returned to his own command post and held another conference with his commanders. The accused denied that he said anything about prisoners of war at this conference (R 1911-1912). The regimental order was then prepared by his adjutant and was finished about midnight 15-16 December 1944. It was based on the division order and concerned itself with the order of march and the mission of Combat Group Peiper. This order contained nothing about treatment of prisoners of war or a wave of terror; it contained purely tactical matters (R 1913).

Honsfeld. The accused testified that when he entered Honsfeld at dawn on 17 December 1944 he saw some American soldiers running around among the houses, but he did not see any prisoners of war shot (R 1921). The accused also testified that he knew nothing about the shooting of American prisoners of war in Honsfeld as described in the extrajudicial sworn statements of Wilson, Morris and White, as he was not present at the time (R 1921-1922).

Bullingen. Albert Braun testified that in Bullingen the accused had prisoners of war loaded on trucks and sent to a collecting point (R 2384). The accused testified that as he approached Bullingen about 0930 hours 17 December 1944 he saw about 12 prisoners of war walking toward him along the road. They were sent to the rear without guards. In the town of Bullingen he saw about 60 prisoners of war collected in one point and he ordered DIEFENTHAL to send these prisoners to the rear in American trucks (R 1924).

braun further testified that he reached Bullingen about 0900 hours 17 December 1944 and took about 50 prisoners of war. The prisoners were disarmed in a field next to a cemetery. He took them into the town and had them placed in a truck to be taken to the rear. At this time the accused came by, spoke to the witness, and went over to the prisoners to see that they were moved back (R 2783-2785).

The Crossroads. The accused testified that he arrived at the Crossroads about 1300 or 1330 hours 17 December 1944 and did not stop until he reached a point about 500 meters south of the Crossroads. He saw about 40 to 60 American soldiers at the Crossroads some of whom were standing on the road, some lying in the ditches and the majority lying on the right side of the road in an open area (R 1929-1930). He saw some of the grenadiers behind him fire at some Americans who were carrying rifles and running toward the woods. He motioned to the soldiers to return to their vehicles (R 1931). The accused further testified that he did not see any prisoners of war shot at the Crossroads (R 1932).

Ligneuville. The accused testified that he saw several prisoners of war in Ligneuville and that they remained behind with German wounded. No prisoners of war were shot in Ligneuville (R 1936). Froehlich testified that when he took about five prisoners of war as he passed through Ligneuville the accused ordered that the prisoners be left on the road so that the walking wounded would pick them up and take them back (R 2781-2782).

Stavelot. The accused testified that his units took Stavelot on 18 December 1944 and that no prisoners of war were shot in that town (R 1937-1939).

Cheneux. Lieutenant Colonel McGown testified that there were no troops of his division in Cheneux on 18 December 1944 (R 1840).

La Gleize. Mohius testified that the accused appointed a man to be responsible for welfare and supply of prisoners of war in La Gleize (R 2855). Lieutenant Colonel McGown testified that he knew of no serious infractions of the Geneva Convention by members of Combat Group Peiper (R 1823); that he did not see any prisoners shot or mistreated on his trip

from Stoumont to La Gleize (R 1824); that he did not see any dead American troops in La Gleize (R 1825); that he made an inquiry of American prisoners of war concerning any violations of the Geneva Convention and none was reported (R 1832); that the period of time covered was 21 to 25 December 1944 (R 1830, 1840); that there were no American troops in La Gleize on 18 December 1944 nor did any arrive there until 25 December 1944 (R 1840).

Mobius corroborated the testimony of McGown concerning the proper treatment of American prisoners of war (R 2857). Walla testified that the order of the accused for an execution detail given to HENNECKE in La Gleize was for the purpose of executing a deserter from the company of RUMPF (R 2865-2876).

The accused admitted that on 19 December 1944 near Stoumont he ordered MOTZHEIM to take some prisoners of war to La Gleize, but he denied the truth of MOTZHEIM's statement that in La Gleize between 1000 and 1100 hours on the same morning he said "as usual" to Poetschke when the latter asked him what disposition should be made of two prisoners of war. The accused stated that he was not in La Gleize that day until 1230^{hours} (R 1946-1948).

The accused testified that on the evening of 21 December 1944 in La Gleize he saw about eight prisoners of war who had been shot at the edge of town. He made inquiry of Poetschke regarding these prisoners and was told that they were shot while trying to escape during the afternoon (R 1960, 1961).

On 23 December 1944 when it appeared that preparations would have to be made to break out of La Gleize, the accused had a conversation with an American prisoner, Major McGown, in which arrangements were made to leave all American prisoners of war behind, with the exception of the Major, to be returned to the Americans in exchange for German wounded who were being left behind. Pursuant to this arrangement, the American prisoners were released on 24 December 1944 (R 1961, 1962).

The accused testified that the purpose of the execution detail which he ordered HENNECKE to direct RUMPF to form was to shoot a member of a panzer grenadier company who had taken off his SS insignia and was suspected of desertion (R 1965).

Lieutenant Colonel McGown testified that he was captured in the middle of the afternoon of 21 December 1944 by elements of the 1st SS Panzer Division. About 1600 hours he was taken to La Gleize and placed in a small cellar with four other American officers from his regiment. He did not see any American prisoners of war mistreated by men of the accused's units. In the evening of the same day he was taken to a cellar where there were about 135 American prisoners of war. He inquired of these prisoners regarding the treatment they were receiving and found that the only complaint was insufficient food and theft of watches and rings by German soldiers. No serious infractions of the rules of the Geneva Convention were apparent (R 1820-1823). He further testified that when he entered La Gleize he passed the church at the south end of town at about 1400 hours and he did not see any dead American soldiers there or at any other place in La Gleize. During the evening of 21 December 1944 he was questioned by the accused, a second lieutenant, and several noncommissioned officers. He gave no information, but he was not mistreated (R 1824, 1825). On 22 December 1944 he was taken to the accused's command post and spoke with the accused from midnight until early morning of 23 December 1944. No tactical information was exchanged. During this conversation the accused mentioned an incident in which nine prisoners of war engaged in work details were shot while trying to escape. The accused expressed his regrets regarding the incident and asked McGown to warn other prisoners not to repeat such conduct (R 1828, 1830). While confined in a cellar in La Gleize, prisoners were permitted to send a water detail to a nearby spring as often as necessary. The food provided was adequate though not delectable (R 1832). During the night of 23-24 December 1944 he was again taken to the accused's command post and there made arrangements whereby all American prisoners except himself were to be left behind after a break-through from the encirclement at La Gleize was accomplished (R 1833-1834). As a result of this agreement about 150 American prisoners of war were released (R 1835).

Mobius testified that he was a captain in the 501st Heavy Tank Battalion and that he arrived in La Gleize on 19 December 1944 in the late afternoon. On 20 December 1944 the accused issued instructions that a man

be appointed to become responsible for the welfare and supply of prisoners of war in La Gleize (R 2855). Mobius further testified that the accused asked him whether he knew of any American prisoners of war being shot in La Gleize. The witness replied that he had no knowledge of such incidents. The accused then said that members of his regiment were not involved but he would follow up the matter (R 2858-2859).

Stoumont. The accused testified that 30 prisoners of war were taken in Stoumont on 19 December 1944 and he ordered them sent to La Gleize (R 1946). The accused denied the truth of that part of the extrajudicial sworn statement of WERNER which stated that prisoners of war were shot in Stoumont about 0700 hours 19 December 1944. He stated that because of a heavy fog they did not enter Stoumont until 0900 hours (R 1949). For the same reason the accused denied the truth of the parts of the extrajudicial sworn statements of SZYPERSKI, MIKOLASCHKE and RITZER which stated that prisoners of war were shot in Stoumont between 0700 and 0800 hours on 19 December 1944 (R 1949-1950). The accused also denied the truth of that part of the extrajudicial sworn statement of HILLIG which stated that about noon on 19 December 1944 in Stoumont HILLIG shot a prisoner of war upon the order of the accused. He also denied the truth of the testimony of Landfried and Ebeling to the effect that they saw HILLIG conversing with the accused about this time and then saw HILLIG take a prisoner of war into a field and shoot him. The accused explained that what actually happened at this time was that he motioned to an American medic to come toward him and after questioning him regarding the security of the town ordered him to be taken back to the aid station (R 1950-1953). The accused testified that no prisoners of war were shot in Stoumont on 19 December 1944 and that he hardly saw one dead American (R 1954).

Lieutenant Colonel McGown testified that at the end of the day, 18 December 1944, some American troops were 500 yards east of Stoumont, but there were no American troops east or south of the river (R 1840).

Willicke testified that he was a German medic stationed in a castle in the vicinity of Stoumont on 19 December 1944. On that date he went to a

house occupied by a Belgian doctor. He saw a sergeant bring about 30 American soldiers from the cellar. One wounded man was taken to an ambulance and the accused ordered that the others be sent to the castle in Stoumont (R 2750-2752). The witness did not know what disposition was made of these Americans (R 2753).

Freitag testified that he was member of Headquarters Company, 1st Panzer Battalion, 1st SS Panzer Regiment, and was assigned as a half-track driver. He arrived in Stoumont on the morning of 19 December 1944 after stopping about 200 meters outside of Stoumont to pick up wounded including American medical personnel. He saw the accused standing next to a house from which about 30 prisoners of war were taken. The accused ordered them taken to the aid station in the castle (R 2769-2772). There were about 100 prisoners of war in the castle in Stoumont and they were treated well (R 2772-2774).

Freehlich testified that he was a member of Headquarters Company, 1st Panzer Battalion, 1st SS Panzer Regiment, and that he reached the outskirts of Stoumont on the morning of 19 December 1944. As he entered the town he saw some civilians and American soldiers outside a house. The accused spoke to an American medic in English and told him he was to be taken to the aid station (R 2779-2781).

In Stoumont the accused issued an order to send prisoners of war to the aid station and, in general, the accused treated prisoners of war well, according to the testimony of Willicke (R 2752), Freitag (R 2772), and Freehlich (R 2779-2781).

Trois Ponts. The accused testified that after about 10 to 12 prisoners of war were brought to him in Trois Ponts on 18 December 1944, they were sent to the rear without guards to be picked up by the convoy behind him (R 1939).

Petit Thier. The accused testified that while he was in the Chateau Petit Thier in early January 1945 an American prisoner of war was brought before him. The prisoner was suffering from third degree frost-bite and was completely exhausted and starved from hiding out in the woods

for two weeks. The prisoner was unable to drink any coffee or smoke the cigarette which was offered to him. After a conversation with the regimental doctor, the accused ordered the doctor to take the prisoner to the aid station (R 1903-1904).

Pretrial Interrogations. The accused testified that in Schwaebisch Hall he was locked up in a punishment cell for six days. This was the type of cell which has been referred to by his comrades as a "death cell." While in the cell he did not have any physical movement. The day before he left Schwaebisch Hall he was beaten. He could not find out who performed the beating as he had a hood over his head, but he presumed that Poles were responsible. This occurred only on one occasion (R 1893). On cross-examination the accused stated that after staying in a punishment cell at Schwaebisch Hall for six days he was moved to a hospital cell for three months (R 1969). On being questioned by the Court for details of the beating he received at Schwaebisch Hall, he replied that it occurred on the last day of his stay there. He was called for interrogation and, as usual, had a black hood over his head. He had to wait in the hall of the prison for about five minutes, while the American sergeant who came for him went to get some others from their cells. While he was standing quietly waiting, he was struck in the face and several times in his sexual parts with a stick. He was of the opinion that it was a Pole, inasmuch as Poles were used as guards (R 2045).

Lieutenant Perl testified that the accused never complained to him about receiving a beating from Poles the day before leaving Schwaebisch Hall. He did not see or interrogate the accused the day before he left Schwaebisch Hall, as at that time he, Perl, was in Wiesbaden (R 2932).

Mr. Thon testified that he did not interrogate the accused the day before he was transferred to Dachau, but that he did talk to him. The accused did not complain about having been beaten in his sexual parts by Poles (R 2939).

Sufficiency of Evidence: The implementation of the common plan and the commission of the atrocities, which formed the basis of the charge and particulars, are traceable to the energy and ruthlessness of the accused more

Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Dr. Eugen Leer, 1 September 1947; the accused's father, Weldemar Peiper, 8 January 1947, 14 July 1947 and 30 August 1946; and his wife, Sigurd Peiper-Hinrichsen, 23 November 1946.

Recommendation: That the findings and sentence be approved.

43. Hans PLETZ

Nationality:	German
Age (May 1946):	21
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, May 1943 to May 1945
Military Status:	Sergeant, Tank Commander, Headquarters Section, 2nd Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Place:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Stoumont. Lessau testified that he was driving the tank of Company Commander CHRIST when he reached the center of Stoumont on the morning of 19 December 1944. He observed a group of unarmed American prisoners of war, about 12 to 18 in number, standing in front of a grocery store located on the right side of the street. The prisoners had their hands above their

roads facing the street. As the vehicle stopped in front of these prisoners of war, three to five shots were fired by the accused from the turret machine gun of the tank driven by the witness. There was no fighting going on there at that time. The witness did not see the effect of the shots (R 1353-1358).

WERNER, also a member of the 2nd Panzer Company, stated in his extrajudicial sworn statement that the tank he was driving entered Stoumont about 0700 hours 19 December 1944. While driving along the main street of Stoumont past a point in the center of the village he saw a group of 30 to 35 American prisoners of war on his right side standing in single file facing him. The prisoners had their hands clasped behind their heads and they had no weapons. When WERNER's tank reached a point about midway of the column of prisoners, machine gun fire from the tank behind him shot into the prisoners who were within his view. He saw the half of the group which was within his view fall to the ground. The tank immediately behind him was that of Company Commander CHRIST (R 1348, 1349; P-Ex 103).

Evidence for Defense:

Stoumont. Vollsprecht testified that he arrived outside Stoumont about 0500 hours on 19 December 1944 and joined in the attack about 0800 or 0830 (R 2728-2729). He further testified that in Stoumont he passed a grocery store on the right hand side of the road and stopped for about five minutes. The tank of CHRIST was 10 to 15 meters in front of the witness and he had a clear view of the grocery store. There were no prisoners of war standing in front of the store, nor did Vollsprecht see any shooting in the direction of the grocery store coming from CHRIST's tank (R 2776, 2777).

Sufficiency of Evidence: The Court apparently concluded that the accused willingly killed surrendered prisoners of war. However, in the absence of positive evidence that some compulsion did not result from the immediate presence of the accused's superior, CHRIST, it cannot be inferred that some compulsion did not exist. This circumstance should be considered in mitigation, notwithstanding the accused's rank as sergeant and position held as tank commander.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused's father, Hans Fletz, 17 October 1946.

Recommendation: That the findings and sentence be approved, but that the sentence to life imprisonment be reduced to imprisonment for 15 years, commencing 16 July 1946.

44. Georg FREUSS

Nationality:	German
Age (July 1946):	26
Civilian Status:	unknown
Nazi Organizations:	Warfen SS, April 1939 to May 1945
Military Status:	Captain, Commander, 10th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Place:	MG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that on the night of 15-16 December 1944 he reported the speech to his company that he had heard at LIEFENTHAL's battalion command post, which included statements that enemy resistance was to be broken by terror and that no prisoners of war were to be taken (R 941; S-Ex 74). This is corroborated by the testimony of Von Silling (R 358) and Courtes (R 339-341), both of whom were assigned to the accused's company.

Sullingon. The accused also stated therein that in the afternoon of 17 December 1944 Sergeant Berghaus brought an unarmed and surrendered American flier to him while he was near Sullingon. He interrogated the prisoner of war and prepared to leave on a reconnaissance mission when Berghaus asked what was to be done with the prisoner. The accused then ordered Berghaus to take the prisoner out and kill him. This was done and Berghaus brought back to the accused a gold wedding ring and r

pair of flight officer's trousers (R 942, 943; P-Ex 74). This killing of the flier is corroborated by the testimony of wokies (R 930-934) and Knoblock (R 937), both of whom were assigned to the accused's company.

Subler, a sergeant in the 10th Panzer Grenadier Company, testified that as he was about to leave Mullingen, Brecht, a member of the 10th Panzer Grenadier Company, came toward him with two surrendered American prisoners of war. Brecht took the two prisoners into a field and shot them. The prisoners were unarmed and were not trying to escape (R 948, 949).

Le Gleize. SIEGMUND stated in his extrajudicial sworn statement that while in Le Gleize on 21 December 1944 near the command post of the accused, a sergeant of the 10th Panzer Grenadier Company, well described except as to name, told SIEGMUND that five surrendered and unarmed American prisoners of war were to be shot by order of the accused. Pursuant to this order SIEGMUND and others proceeded to kill the prisoners of war (R 1436, 1437; P-Ex 113).

STOCK stated in his extrajudicial sworn statement that about 1030 hours 22 December 1944 while he was in Le Gleize a messenger came from the accused to Sergeant Schumacher telling him to report to the accused immediately. Schumacher complied and returned in about ten minutes and said that there were 20 prisoners who were to be shot on orders. He then used the expression "Marsche, marsche" which could only mean that the orders came from the accused. An execution detail of five men, including STOCK, went to the church yard where they found the 20 prisoners lined up with their backs to the inside of the wall surrounding the church. The detail then shot the prisoners (R 1250, 1251; P-Ex 96).

R/UR stated in his extrajudicial sworn statement that at Le Gleize on 22 December 1944 Dutschke came to R/UR and told him that seven or eight American prisoners of war had just been brought in and that they had to be "bumped off". In this connection Dutschke said, "Marsche,

was the nicknames for the accused and these prisoners of war were killed

by members of the accused's unit, including RAUH (R 1429, 1430; F-5x 112).

Evidence for Defense:

Instructions to Subordinates. Gerwick testified that the accused spoke at a company meeting on 15 December 1944 in Blankenheim Forest, but said nothing concerning shooting prisoners of war, treatment of civilians, or the use of terror methods (R 2345, 2346). This is corroborated by the testimony of Mannitz (R 2343, 2344). Winderman testified that at LIEFEN-THAL's battalion meeting, at which the accused was present, nothing was said concerning shooting of prisoners of war or civilians (R 2104, 2105).

Bullingen. Mannitz, a member of the 10th Panzer Grenadier Company, testified that he was in Bullingen on 17 December 1944 and that most of the men of the company were there for only 10 or 15 minutes. He saw no prisoners of war in Bullingen. The accused was riding in the "radio tank" and when the witness stopped at a road fork because he had started the wrong way, he saw the accused in one of the vehicles which passed by on the correct road (R 2619).

Gerwick testified that the two prisoners with Brecht were not taken into a field in Bullingen and shot as stated by Hubler. These two prisoners of war were taken to the airfield near Bullingen and placed on a truck which already contained 20 to 25 prisoners of war (R 2920). After Brecht delivered the prisoners of war, he joined the witness in his half-track and they moved out of Bullingen (R 2921).

Le Gleize. Mannitz testified that he was in Le Gleize with the 10th Panzer Grenadier Company all day on 22 December 1944 and he did not see any American prisoners of war shot, nor did he see any dead American soldiers (R 2623, 2624).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders

present, except for the campaign plans and orders of various levels of command for the application of terrorism, which the accused as an officer in an essential Nazi organization actively supported. There is nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

petitions: A Petition for review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's father, Paul Krauss, 14 July 1947; and his fiancée, Irmgard Hojex, undated.

Recommendation: That the findings and sentence be approved.

45. hermann RAIBER

Nationality:	German
Age (May 1946):	44
Civilian status:	None
Nazi Organizations:	SAffien SS, 1934 to May 1945
Military status:	Lieutenant General, Commanding General, I SS Panzer Corps, Sixth SS Panzer Army
Plea:	NG
Findings:	G
Sentence:	20 years, commencing 16 July 1946

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that in the afternoon of 15 December 1944 he spoke at his command post in Schmidheim to the commanding officers of the advance elements and to the division commanders. His speech was very short. The Army Order of the Day from BIELEFELD was published at this time and each commander was reminded briefly of his mission and his duty (S 158, 159; P-ex 10).

RAIBER stated in his extrajudicial sworn statement that he was present at the time of this speech, that the accused mentioned the meeting

with the Fuehrer, and that upon the latter's order the fight had to be with reckless brutality and hardness. He further stated that he believed the accused used the words as they were in the Army Order of the Day when he talked about the manner in which to treat the enemy and fight him (R 131, 132; P-Ex 7). In another extrajudicial sworn statement FEIFER stated that the Army Order of the Day contained statements that the troops were to be preceded by a wave of terror and fright and that prisoners of war were to be shot where local conditions required it (R 163; P-Ex 11).

Evidence for Defense:

Instructions to Subordinates. The accused testified that he attended the meeting with the Fuehrer at Bad Nauheim; and that the Fuehrer's speech contained nothing concerning prisoners of war, civilians, or disregarding humane inhibitions, or that the troops should be preceded by a wave of brutality and terror (R 1744, 1745).

According to the Army Order of the Day the plans provided that the troops were to proceed across the Moselle river with strong artillery and air support and cut off and annihilate the enemy east of the Moselle. The Army Order of the Day contained nothing concerning prisoners of war, civilians, or the use of brutal methods (R 1747). This order was not of a military nature but was only propaganda. The accused also testified that in his speech he never mentioned prisoners of war, civilians, or brutal terror methods (R 1747, 1748); that the field order of the Sixth SS Panzer Army did not contain anything concerning prisoners of war but did contain one paragraph which stated that the operations would lead into territory occupied by a hostile population which would take part in the fight. The field order did provide that all resistance from armed civilians was to be broken (R 1749, 1750). The supply order, which was an appendix to the field order, contained matter concerning prisoners of war, collecting stations, and the transportation of prisoners of war to the rear in empty convoys (R 1750).

The accused explained that, under German principles, corps commanders

were not responsible for the behavior of troops, nor did they have a judge advocate. The highest ranking commanders having personal control of training, orientation and military justice were the division commanders, who consequently were responsible for the behavior of troops, their training and orientation (R 1755).

Engel corroborated the testimony of the accused to the extent that the Fuehrer in his speech did not mention anything about prisoners of war or civilians; neither did he say that the troops were to show no humane inhibitions nor that a wave of fright and terror was to precede the troops (R 1635, 1636).

Simsen testified that at the conference at the corps command post on 15 December 1944 nothing was mentioned about prisoners of war, wave of terror, inhumane treatment, or civilians (R 1781, 1782).

Behmen testified that he, likewise, attended the corps conference on 15 December 1944 and the accused said nothing concerning prisoners of war, civilians, wave of terror, etc. (R 1858).

Weyer testified that he received a field order signed by the accused to the effect that prisoners of war were to be taken over by the grandior units; and that the supply order of the accused provided for prisoner of war collecting points at fuel dumps of the corps (R 1871).

Auhlmann corroborated the accused as to the content of the accused's speech at the conference on 15 December 1944 concerning prisoners of war, civilians, and unusual methods of warfare (R 1880, 1881).

REIPER's testimony also corroborates the testimony of the accused and his witnesses that nothing was said concerning prisoners of war or civilians at the conference on 15 December 1944 (R 1908, 1909).

The accused explained inconsistencies between his extrajudicial sworn statement and his testimony by stating that the former was dictated by the interrogator (R 1751).

Sufficiency of evidence: The accused held a high position in the German Reich and the Waffen SS. He was an essential moving force in

applying the plans for the application of terrorism during the counter-offensive. There is nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

46. Fritz RAU

Nationality:	German
Age (May 1946):	18
Civilian Status:	Unknown
Nezi Organizations:	Waffen SS, August 1944 to December 1944
Military Status:	Private, Rifleman, 4th Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plot:	MG
Findings:	G
Sentence:	Life Imprisonment

Evidence for Prosecution:

Cheneux. The accused was in Cheneux 1800 to 1900 hours 18 December 1944 and saw 30 to 40 American prisoners of war, with their hands clasped behind their heads, standing directly in front of a house. Weimer had a conference with the accused's group leader who returned to the vehicle and stated that "These prisoners of war will have to be bumped off". The group leader, Sergeant Wialfer, then gave the order to fire and the accused shot down three prisoners. He then fired at two Americans who were lying on the ground writhing in pain (R 1239, 1240; P-Ex 95). This is corroborated by the extrajudicial sworn statement of GEBAUER (R 1233, 1234; P-Ex 94).

Le Glaize. The accused stated in his extrajudicial sworn statement that he was in Le Glaize on 18 December 1944. About 1700

hours on that day 15 American prisoners of war were seen standing in front of a well surrounding a church. Their hands were clasped behind their backs. Reiber returned from a talk with Lieutenant Winderman and gave an order to the group leader, Sergeant Wulfer, to "bump off" the prisoners of war. Sergeant Wulfer gave the crew of the accused's vehicle the order to fire. The accused fired about five rounds directly at three or four men and he saw them fall and remain motionless (R 1238, 1239; P-Ex 95). This is corroborated by the extrajudicial sworn statement of GEBAUER (R 1233; P-Ex 94).

Evidence for Defense:

Chaneux. The accused stated in his extrajudicial sworn statement that he fired at the prisoners of war in Chaneux pursuant to orders from his superior, Wulfer (R 1239, 1240; P-Ex 95). This is corroborated by the extrajudicial sworn statement of GEBAUER (R 1233; P-Ex 94).

Le Gleize. The accused stated in his extrajudicial sworn statement that he fired at the prisoners of war in Le Gleize in obedience to orders of his superior (R 1238, 1239; P-Ex 95). This is corroborated by the extrajudicial sworn statement of GEBAUER (R 1233, 1234; P-Ex 94).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the

accused's half brother, Rudolf Heu, 24 June 1947; and Otto Welter, 13 December 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

47. Info R/DM

Nationality:	German
Age (May 1946):	27
Civilian status:	Unknown
Work organizations:	Offen SS, April 1943 to December 1944
Military status:	Corporal, Driver, 4th Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Fier:	NO
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

La Gloize. The accused stated in his extrajudicial sworn statement that in La Gloize on 22 December 1944 he was standing near his personnel carrier when Corporal Dutschke told the accused and other soldiers nearby that seven or eight American prisoners of war had just been brought in and that they had to be "bumped off". Dutschke added that Fritzsche, Commander, 10th Panzer Grenadier Company, "is all for it". After Dutschke had spoken, one of the group made a proposal to "bump off" the prisoners of war by target practice. Fritzsche, SIEGMUND, two or three men from the 10th Panzer Grenadier Company, and the accused shot at the American prisoners of war who were at short distance in front. The accused shot at the back of the head of one prisoner and saw him fall forward dead (R 1429-1431; P-Ex 112). This incident is corroborated by the extrajudicial sworn statement of SIEGMUND (R 1437, 1438; P-Ex 113) and the posttrial unsworn and unsigned statement of Fritzsche (R 1470, 1471; P-Ex 114). The accused and witnesses, above named, indicate by

their extrajudicial sworn statements that upon being informed by Dutschke, a corporal, that the prisoners had been brought in, the enlisted men and noncommissioned officers present, after an exchange of light conversation, agreed upon the target practice (R 1429-1431, 1437-1439, 1470, 1471; P-Exs 112, 113, 114).

STOGA in his extrajudicial sworn statement said that in La Gleize at about 1700 hours 22 December 1944, he saw the shooting of six to eight prisoners of war by drivers of the 10th and 11th Panzer Grenadier Companies and that the accused was one of those who participated in this shooting (P-Exs 1251, 1252; P-Ex 96).

Evidence for Defense:

La Gleize. Lott testified that the accused was with him in the forest guarding vehicles on 22 December 1944 and that at no time did the accused kill any American prisoners of war (R 2893, 2894).

Sufficiency of Evidence: Apparently the theory of defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. The Court might well have concluded that no specific order was given to the accused or others involved in the shooting of these prisoners and that they conceived of the entire shooting plans themselves. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. It is clear that the accused willingly complied with such plans and orders. There was no military excuse and there is nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A petition for review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's parents, Konrad and Anna Kauh, 18 July 1946; Karl Thurn, 22 July 1946, 12 August 1946; Joh. Eder, 13 August 1946; Mr. Werner, 12 August 1946; Marie Gross and 14 other persons, undated; and K. Arndt,

12 August 1946.

Recommendation: That the findings and sentence be approved.

48. Hans KSH/GAL

Nationality:	German
Age (May 1946):	25
Civilian Status:	unknown
Nazi Organizations:	Offen SS, April 1943 to May 1945
Military Status:	second lieutenant, Platoon leader, 1st Platoon, 7th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Flot:	WG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that on 16 December 1944, pursuant to orders from his company commander, he told the men of his platoon, among other things, "Think of your relatives at home who perished in the bomb terror; we have total war and will take no prisoners" (A 587, 590; P-ex 42). The fact that the platoon was instructed not to take prisoners is corroborated by the testimony of Reicke (A 305), Schroth (A 307), and Hans Piper (A 313).

The Crossroads. The accused stated in his extrajudicial sworn statement that he arrived at the Crossroads on 17 December 1944 and stopped at a distance of about 30 to 40 meters beyond the Crossroads. In a pasture near the right side of the road he saw American prisoners of war standing with hands upraised. Upon a direct order from CHRIST, the accused shot at the prisoners with an anti-aircraft machine gun (A 590, 591; P-ex 42). Hans Piper, a member of the accused's platoon, testified that the accused fired 20 to 30 shots at prisoners of war at the Crossroads after he had talked to CHRIST (A 582).

Evidence for Defense:

Instructions to Subordinates. One member of the accused's

platoon testified that the accused said nothing about shooting prisoners of war in his speech of 15 December (2297-2299). Another testified that the accused stated that no prisoners of war were to be taken, but that statement meant that prisoners were to be left to the infantry following them (a 2303, 2304).

The Crossroads. The accused stated in his extrajudicial sworn statement that while he was stopped at the Crossroads a general order was given for the prisoners to shoot. He did not immediately participate in the shooting and was then given a direct order by CHRIST, a First Lieutenant, who pointed at him and directed him to shoot. The accused questioned this order and did not shoot until CHRIST told him that the order came "from the front" or "from the commander" (R 591; P-ex 42).

Sufficiency of Evidence: Apparently the court concluded that the accused willingly killed surrendered prisoners of war in conformity with the direction of his superior. However, the evidence indicates that some compulsion did result from the immediate presence of his superior and this circumstance should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A petition for review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Guenther Wechner, 25 October 1946; the accused's wife, Barbara Rehgel, 20 October 1946, 24 September 1946, and 24 August 1946; Elisabeth Koss, untested; H. Voss, 21 August 1946; the accused's parents, Dr. and Mrs. Gustav Rehgel, and Walter Henneberg, 30 September 1946 and 18 August 1946; by the accused, 10 August 1946 and 12 December 1946; and Heinrich Lenz, 21 August 1946.

Recommendation: That the findings and sentence be approved, but that the sentence of death by hanging be commuted to life imprisonment.

49. Rolf Roland REISER

Nationality:	Rumanian
Age (May 1946):	25

Civilian Status:	Unknown
Wartime Organizations:	Wehrmacht, July 1942 to May 1945
Military Status:	Second Lieutenant, Adjutant, 1st Panzer Battalion, 1st SS Panzer Regiment
Rank:	WO
Findings:	G
Sentence:	10 years, commencing 16 July 1946

Evidence for Prosecution:

La Gleize. HENNECKE, Platoon Leader, 1st Panzer Company, stated in his extrajudicial sworn statement that on 22 or 23 December 1944 he was in his command post in the cellar of a house in La Gleize. The battalion command post of Poetschke was in another room in the same cellar. When HENNECKE answered a summons from the battalion command post he saw that there were present in the room REIFER and the accused, as well as the battalion commander, Poetschke. REIFER ordered HENNECKE to find RUMPF and direct him to provide an execution detail for the shooting of prisoners of war. After passing on this order to RUMPF, HENNECKE reported back to REIFER. At this time the accused ordered HENNECKE to provide, from his own company, an execution detail composed of a noncommissioned officer and a few men. HENNECKE selected a detail and explained the mission to the men. About one-half hour later the ranking man on this detail, Sergeant Widun, reported back to HENNECKE that the detail had shot a "lot" of prisoners (R 1007-1009; P-Ex 78).

The accused admitted in his extrajudicial sworn statement that it was possible that he had passed on an order from REIFER that HENNECKE should form a shooting detail. He stated that he did not remember giving such an order (R 1448; P-Ex 115).

Evidence for Defense:

La Gleize. Walls, who was in the command post at this time, testified that the order for the shooting detail was not transmitted through the accused and that the shooting detail was for the execution of a number

of RUMPF's company who had deserted under battle conditions (R 2865-2876). (Throughout the testimony of Willis the name of RITLER appears instead of REISER. This is apparently an error by the reporter as indicated conclusively by the appearance of RITLER in place of REISER in that part of HERNFORK's extrajudicial sworn statement which was read into the record (R 2869, 2870). Also, the name RITZER is used in a quotation from REISER's extrajudicial sworn statement (R 2870).)

Sufficiency of Evidence: The accused was a party to the common plan and gave his superiors full co-operation in the execution thereof. The tasks performed by him fully demonstrate the nature of his participation and the extent of his culpability. It appears that the Court fully considered all mitigating circumstances. Humanis was a co-belligerent of Germany.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's mother, Hermine Reiser, 14 October 1946; his brother, Herwart Reiser, 1 December 1946; and Dr. Eugen Isler, 26 March 1947.

Recommendation: That the findings and sentence be approved.

50. wolfgang RECHT R

Nationality:	German
Age (May 1946):	20
Civilian Status:	Unknown
Nazi Organizations:	Offen SS, August 1944 to December 1944
Military Status:	Private, Rifleman, 1st Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plot:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Dr Gleize. The accused stated in his extrajudicial sworn statement that during the afternoon of 18 December 1944 he entered Dr Gleize in a personnel carrier with his platoon leader, Sergeant Klipp. He saw 10 to 15 unarmed American prisoners of war standing with their arms raised directly before a well surrounding a church. The vehicle stopped and Sergeant Klipp gave the whole crew an order to "bump off" the prisoners. When the crew began firing, the accused shot about four or five rounds from his carbine into the chest of one of the prisoners. That prisoner after being shot fell to the ground and did not move or make any noise (R 1228; P-Ex 93). This incident is corroborated by the extrajudicial sworn statements of GULICKE (R 1222-1224; P-Ex 92) and HECHT (R 1214, 1215; P-Ex 91).

Evidence for Defense:

Dr Gleize. The accused stated in his extrajudicial sworn statement that his participation in the shooting was on the direct order of his superior, Sergeant Klipp (R 1228; P-Ex 93).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's father, Erich Richter, undated; and by the accused's parents, Mr. and Mrs. Erich Richter, 5 April 1947, 25 August 1946, 20 August 1946,

The Crossroads. The accused stated in his extrajudicial sworn statement that in the early afternoon of 17 December 1944 he reached the Crossroads. He stopped by a pasture where he saw a great number of American prisoners who had been shot. Some of them, however, were still alive. After a short conversation between Sergeant BODE, Private First Class Losenski, and Sergeant Bontner, BODE opened fire upon the prisoners who lay on the ground and showed signs of life. Private First Class Losenski pointed at one prisoner of war who was still alive and ordered the accused to give the man a mercy shot. Feeling compelled to carry out this order, the accused shot with his carbine and was certain that death resulted to the prisoner because he did not move any longer (R 727; P-Ex 54). This is corroborated by the extrajudicial sworn statement of JAKEL (R 684-688; P-Ex 49).

Evidence for Defense:

The Crossroads. According to the statement of the accused, he shot the prisoner in compliance with a direct order from his superior (R 727; P-Ex 54).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of a surrendered prisoner of war who was deprived of potential means of continuing as an opponent in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of a prisoner in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation. Austria was a co-belligerent of Germany.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

of a prisoner who stood approximately six meters away from him. The prisoner collapsed and fell to the ground (R 757-759; r-ex 57). This incident at the Crossroads is corroborated by the extrajudicial sworn statement of Von CHAMIER (R 747-749; r-ex 56).

Evidence for Defense:

Bullingen. An extrajudicial sworn statement dated 26 June 1946 and signed by the mayor and registrar of the community of Bullingen certified that Mrs. Anton Jonsten died in Bullingen on 18 December 1944 and that the list in the registrar's office contained no other case of death from unknown causes during 1944 (R 2561; r-ex 6). In an extrajudicial sworn statement, Anton Jonsten, husband of Mrs. Anton Jonsten, stated that his wife was killed by American artillery fire on 16 or 17 December 1944 in Bullingen while she was outside her house attempting to flee from combat and that her body bore marks indicating that death was caused by the explosion of a grenade (R 2562, 2563; r-ex 7).

The Crossroads. Both testified that he was in the same company as the accused and he did not see the accused shoot at the Crossroads. However, his vehicle did not arrive until 1400 to 1430 hours which was after the time that the accused reached the Crossroads (R 2792, 2793).

Sufficiency of Evidence: The accused obviously realized that his acts of participating in the shooting of a civilian, and surrendering prisoners of war who were deprived of potential means of continuing as opponents in warfare were inherently wrong and contrary to universally accepted standards of human conduct. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Retentions: A retention for review was filed by American defense counsel, 28 December 1946. No retentions for clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 15 years, commencing 16 July 1946.

52. Rolf RITZER

Nationality:	German
Age (May 1946):	22
Civilian Status:	Unknown
Nazi Organizations:	Staffed SS, March 1942 to May 1945
Military Status:	Private First Class, Machine Gunner, 3rd Platoon, 2nd Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plot:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Statement. The accused stated in his extrajudicial sworn statement that during the morning of 19 December 1944 between 0700 and 0800 hours while in Stoumont as a crew member of one of the tanks of the 2nd Panzer Company, he saw a group of 15 to 20 American prisoners of war standing unarmed with their hands raised over their heads. His tank commander, Sergeant Brauschke, at once gave an order to shoot these prisoners of war. The accused then fired three to four bursts with his machine gun and saw a number of these American prisoners of war slump to the ground as though they were fatally wounded. By the manner in which these American prisoners of war were lying, it appeared that they were dead (R 1305, 1306; P-Ex 99).

The accused further stated that about 1400 hours when he was approximately two kilometers from Stoumont he saw 15 surrendered and unarmed prisoners of war. Brauschke again gave the order to shoot at these prisoners of war and the accused fired four bursts into the group until his machine gun jammed. These prisoners fell to the ground when they were hit and lay quietly; apparently they were either all dead or

badly wounded. As he shot he noticed tracer streaks from the tank behind go into the group of prisoners (R 1306, 1307; P-ex 99).

The participation of the accused in the killing of the American prisoners of war in Stoumont and the killing of prisoners two kilometers from Stoumont is corroborated by the extrajudicial sworn statement of SEYFERSKI (R 1340-1343; P-ex 102), driver of the accused's tank.

Evidence for Defense:

Stoumont. The accused stated in his extrajudicial sworn statement that in both instances of shooting, in and near Stoumont, his participation was pursuant to direct orders from his immediate superior, Sergeant Brauschke (R 1305-1307; P-ex 99).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

53. Axel RODENBURG

Nationality:	German
Age (May 1946):	21
Civilian Status:	Unknown
Nazi Organizations:	Weissen SS, April 1942 to May 1945

Military Status: Sergeant, Personnel Carrier Driver,
2nd Platoon, 12th Panzer Grenadier
Company, 3rd Panzer Grenadier Battalion,
2nd Panzer Grenadier Regiment

Place: NC

Findings: G

Sentence: Death by hanging

Evidence for Prosecution:

Le Gleize. The accused stated in his extrajudicial sworn statement that during the afternoon of 22 or 23 December 1944 he was in his unit's command post in a house in Le Gleize. He heard someone shout, "Jump them off". He then looked out of the window and saw three unarmed and surrendered American prisoners of war walking along the side of the main house. The prisoners were unarmed and had their hands raised. A German guard was walking five to eight meters behind them. The accused loaded his pistol, aimed it at the middle prisoner and shot. His investigation revealed that the prisoner was killed (R 1455, 1456; -Ex 117).

The occurrence of this incident is corroborated by the extrajudicial sworn statements of SCH AMBACH (R 1482, 1483; r-ex 118) and WEIS (R 1486, 1487; -Ex 119).

Evidence for Defense:

Le Gleize. Grafmauller testified that he was in Rinalzer's command post in Le Gleize on 23 December 1944 and he did not see any prisoners of war or any shooting of prisoners of war. He did not see the accused but he was certain he was in the command post (R 2650-2652).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of a surrendered prisoner of war who was deprived of potential means of continuing as an opponent in warfare was inherently wrong and contrary to universally accepted standards of human conduct. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

petitions: A petition for review was filed by American defense counsel, 28 December 1946. A petition for Clemency was filed by the accused's mother, Lore Rodenburg, 2 September 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 15 years, commencing 16 July 1946.

54. Erich RUMF

Nationality:	German
Age (May 1946):	24
Civilian Status:	Unknown
Nazi Organizations:	Keppen SS, September 1939 to May 1945
Military Status:	First Lieutenant, Commander, 9th Panzer Pioneer Company, 1st SS Panzer Regiment
Race:	WG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that on 13 December 1944 he read to his company a regimental order which stated, among other things, that a situation could arise when prisoners of war have to be shot and, if necessary, resistance was to be broken by terror. However, he did not give any explicit order not to take prisoners of war, nor did he add anything to the order in regard to prisoners of war (R 732-735; P-Ex 55). The content of this order is corroborated by GRUBLE's extrajudicial sworn statement (A 1567, 1568; P-Ex 127).

Honsfeld. NEVE stated in his extrajudicial sworn statement that during the morning of 17 December 1944 just before he entered the town of Honsfeld he passed a personnel carrier of the 9th Panzer Pioneer Company. He saw a group of 10 to 12 surrendered and unarmed American prisoners of war on the left side of the road. Neery was an

officer from the 9th Panzer Pioneer Company, whom he later learned to be the accused. NEVE heard the accused say to three or four German soldiers, "Go on, bump them off" (R 668; P-ex 48).

The Crossroads. Von CHAILER stated in his extrajudicial sworn statement that he saw the accused at the Crossroads. The accused shouted to Von REMIER and the men of his personnel carrier to get their weapons and to follow him. The accused led them to a pasture in which approximately 90 unarmed, surrendered American prisoners of war were standing. He then gave them an order to shoot these prisoners. In compliance with the order they opened fire (R 747, 748; P-ex 56). This incident is corroborated by the extrajudicial sworn statement of RIEDER (R 757-759; P-ex 57).

The presence of the accused at the Crossroads, in the afternoon of 17 December 1944, is established by the extrajudicial sworn statements of CLOTSON (R 569, 570; P-ex 40), SPRENGER (R 623-626; P-ex 44), Joachim HOFMANN (R 648-650; P-ex 46), JAKEL (R 685-688; P-ex 49), and SCHLEIFER (R 1400; P-ex 109).

Le Gloize. The accused stated in his extrajudicial sworn statement that on 21 December 1944 at Le Gloize PAUPER ordered him to select a detail to shoot some prisoners of war. The accused then went to his collar and designated Sergeant MAUTE and three or four others to compose this detail. He ordered them to go in front of the church and shoot some prisoners who were standing there. The accused does not recall whether MAUTE reported back to him (R 740, 741; P-ex 55).

This incident is corroborated by the extrajudicial sworn statements of HENNECKE (R 1007-1010; P-ex 78), Joachim HOFMANN (R 645-657; P-ex 46), JAKEL (R 691, 692; P-ex 49), REICHER (R 1447-1449; P-ex 115), and NEVE (R 672; P-ex 48).

Evidence for Defense:

Instructions to Subordinates. Arujowski, who is first sergeant handled all the company's correspondence, testified that prior to the offensive the accused held orientations on the treatment of prisoners of war in which he stated that prisoners of war were only required to give

their name, date of birth, and home address. Nothing was said openly or indirectly, either during these orientations or at any other time before the offensive, about prisoners of war being shot (R 2319-2322).

Both testified that when giving instructions regarding the treatment of prisoners of war, the accused cited the golden rule (R 2789).

He also testified that the accused never issued any orders that prisoners of war were to be shot (R 2306, 2307).

The Crossroads. The accused stated in his extrajudicial sworn statement that he arrived at the Crossroads about noon on 17 December 1944. Within a few minutes men of his company dismounted and walked by his vehicle toward the field. He learned from the men who returned to their vehicles that a great number of prisoners of war were collected in the field. Later, CHRIST came by and asked for a detail of men. After supplying a group the accused became suspicious as to whether CHRIST needed this detail for shooting prisoners of war; consequently, he directed the leader of the group, Borr, to inquire about what the detail was supposed to do. When Borr returned, the accused discovered that shooting prisoners was the mission of the detail. However, Borr had already passed on the order to shoot prisoners of war in the erroneous belief that the accused would have insisted on the execution of the order. The accused then went to an American truck, as he did not want to watch the shooting of the prisoners. After he stood there for about one to two minutes, the firing upon the prisoners who were standing next to the house began. The accused could hear but not see the shooting which lasted for about one-half minute or less. Some minutes later the accused returned to his personnel carrier with some of his men and drove off in the direction of Ligneuville (R 737-739; P-Ex 55).

Le Gleize. Wells testified that he was present in the command post when the order was given for the accused to form an execution detail and that the mission of the detail was to execute a German soldier for desertion (R 2866-2868). This testimony was corroborated by HENNECKE

on the witness stand (R 2209, 2210).

Ruth testified that the accused did not speak to M'UTE in the cellar in La Gloize on 22 December 1944 and that the accused did not mention prisoners of war or a shooting detail (R 2911-2914). This is corroborated by the testimony of GOLDSCHMIDT (R 2422).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present in most of the incidents involved, except for the campaign plans and orders of various levels of command for the application of terrorism, which the accused as an officer in an essential Nazi organization actively supported. There is nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the Anti-fascist Democratic Committee of Bleicherode, Germany, 7 October 1946; the accused's wife, Elly Rumpf, 16 September 1946; and his parents, Friedrich and Lindy Rumpf, 23 July 1946.

Recommendation: That the findings and sentence be approved.

55. WILH SCHWABER

Nationality:	German
Age (May 1946):	25
Civilian status:	Unknown
Nazi organizations:	Staff SS, April 1940 to May 1945
Military status:	Staff Sergeant, Group Leader, Headquarters platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Flee:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

La Gleize. SPRENGER stated in his extrajudicial sworn statement that he was in the cellar of a house in La Gleize on 22 December 1944 talking to a member of his company, GOLDSCHMILT, who told him that 15 American prisoners of war had been shot, in back of the schoolhouse, by the accused and others (R 653; P-Ex 44).

Stoumont. The accused stated in his extrajudicial sworn statement that in the early morning hours of 19 December 1944 at Stoumont he was standing with his company commander, SIEVERS, when two apparently unarmed American soldiers approached carrying a wounded German soldier. When the accused inquired as to what should be done with these two Americans, SIEVERS answered that they should be shot. Thereupon the accused passed on this order to SPRENGER, who took the Americans away and returned shortly with the report that he had executed the order (R 1399, 1401; P-Ex 109). This incident is corroborated by the extrajudicial sworn statements of Joachim ROHMANN (R 651-652; P-Ex 46) and SPRENGER (R 627, 628; P-Ex 44), both of whom were assigned to the accused's company.

The accused further stated that while they were in the same vicinity, two other American soldiers were seen carrying a wounded American on an improvised litter. Again, SIEVERS gave the accused an order to have the Americans killed. This time the accused transmitted the order to and he went along with Biloschetsky, Greber, and Grawinkel. While the accused was standing at the place of the shooting, he saw the bodies of the first two prisoners lying in the street. The accused remained at the place of shooting until he saw the three additional prisoners lying dead (R 1401; P-Ex 109). This incident is corroborated by the extrajudicial sworn statements of NEVE (R 671-672; P-Ex 48) and SPRENGER (R 630; P-Ex 44).

Evidence for Defense:

Stoumont. Trott testified that the accused did not give any orders to shoot prisoners of war in Stoumont on 19 December 1944. The witness captured 15 prisoners of war in Stoumont and the accused ordered

him to take them to the main rail station in the castle (R 2760-2763).

This is corroborated by witness Teut (R 2603).

Sufficiency of Evidence: The accused relayed specific orders to those who were to perform the illegal killings in accordance with directions of a superior, but he was not required to relay the orders in his presence. Under all the circumstances, including the evidence as to his rank, years of service and position held in an essential Nazi organization, the Court might well have concluded that his desire to co-operate with and please superiors in that organization was stronger than other considerations; that he did not act unwillingly or under the immediate compulsion of superior orders; and that with regard to superior orders the accused failed to meet the burden of proof required by pertinent authorities discussed in Section V, supra.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Dr. Otto Critz, 9 September 1947, 26 June 1947 and 19 December 1946; the accused's wife, Ruth Schfer, 8 May 1947; his parents, Paul and Susanne Schfer, 22 March 1947; and his sisters Elisabeth Schwarz and Anni Horner, 22 March 1947.

Recommendation: That the findings and sentence be approved.

56. RODOLF SCHYAMACH

Act of Hostility:	German
Age (May 1946):	25
Civilian Status:	Unknown
Nazi Organizations:	Written SS, March 1940 to December 1944
Military Status:	Sergeant, Personnel Carrier Commander, 1st Platoon, 12th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Place:	MG
Findings:	0
Sentence:	Death by hanging

Evidence for Prosecution:

Le Gleize. The accused stated in his extrajudicial sworn statement that he was in Le Gleize during the afternoon of 22 December 1944. The accused and Gunther WEIS stood before a house and observed three surrendered and unarmed American prisoners of war being marched between two houses on the other side of the street. Somebody shouted, "bump them off". The accused then aimed at one of the prisoners and fired one or two bursts from his machine pistol. At the same time WEIS fired his machine pistol and ROESENBERG fired his pistol from a window of the house. The accused saw the man he aimed at fall. Bullets penetrated the head and chest. One of the other two Americans fell to the ground. The third man ran into a house (R 1482, 1483; P-Ex 116).

The extrajudicial sworn statement of ROESENBERG corroborates the occurrence of this incident (R 1455, 1456; P-Ex 117) and, in addition, it is stated therein that a German guard walked five to eight meters behind the prisoners.

Evidence for Defense:

Le Gleize. Grafmuller testified that he was in Pfalzer's command post in Le Gleize on 22 December and he did not see any prisoners of war shot (A 2850-2854).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the perpetration of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel,

28 December 1946. A Petition for Clemency was filed by a pastor of Offenbrch/Glen, 4 October 1946.

Recommendation: That the findings and sentence be approved.

57. Kurt SICKEL

Nationality:	German
Age (May 1946):	39
Civilian Status:	Unknown
Arzi Organizations:	Waffen SS, September 1939 to April 1945
Military Status:	Major, Surgeon and Commander Headquarters Company, 1st SS Panzer Regiment
Place:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Fetit Thier. The accused stated in his extrajudicial sworn statement that in early January 1945, while he was with PEIPER in the regimental command post in a castle at Fetit Thier, WICHMANN of the headquarters company, then under the accused's command, brought into the room an American prisoner of war who was extremely starved and frozen after having spent some time hiding in the woods. The prisoner showed signs of third degree frost bite and was, on the whole, very emaciated. The accused proposed to PEIPER that the prisoner be killed. PEIPER accepted the proposal and the accused ordered WICHMANN to have the prisoner shot (R 1560, 1561; P-Ex 126).

The occurrence of this incident is corroborated by WICHMANN in his extrajudicial sworn statement in which he stated that he carried out the order (R 1533-1538; P-Ex 123). Corroboration is also found in the extrajudicial sworn statement of GRUHLE (R 1568; P-Ex 127).

Evidence for Defense: The accused did not take the stand.

Sufficiency of Evidence: Apparently the theory of the defense is to the accused is that he did not participate, but if he did, it was pursuant

to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism, which the accused as a field grade officer in an essential Nazi organization actively supported. There is nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by Dr. Karl Weber, 16 January 1947.

Recommendation: That the findings and sentence be approved.

58. Oswald SIGMUND

Nationality:	German
Age (May 1946):	23
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, September 1940 to May 1945
Military Status:	Sergeant, Motor Mechanic, 2nd Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Regiment
Plat:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Le Gleize. The accused stated in his extrajudicial sworn statement that on 20 December 1944 on the road approximately half way between Le Gleize and Stoumont, his unit met about 10 to 12 unarmed American prisoners of war walking with their hands raised over their heads and guarded by one or two German soldiers. Suddenly someone opened fire on these prisoners. The accused, aiming at the head of one of them, fired two or three shots and saw the prisoner fall to the ground (R 1435, 1436; P-Ex 113).

On 21 December 1944, the accused stood at the entrance of a house near Le Gleize, which was the location of the command post of the Commander, 10th Panzer Grenadier Company. About noon the accused saw a technical sergeant go into the house with five American prisoners of war. About one-half hour later the sergeant came out of the house with them and stated that the prisoners were to be shot by order of FREUSS. The accused then took his machine pistol and joined the sergeant and two or three unidentified members of the 10th Panzer Grenadier Company. They told the prisoners to walk to a place about 50 meters away where the accused, the sergeant and two or three others started to shoot at the prisoners from a distance of about three meters. The accused aimed at the head of one of the prisoners, discharged a short burst of about five shots, and saw the prisoner fall forward, apparently dead (R 1436, 1437; P-ex 113).

About 1600 or 1700 hours on 22 December 1944, the accused was at the edge of a forest near Le Gleize when Corporal Dutschke, driver of the company commander's personnel carrier, pointed to six or seven prisoners and said that they had to be "bumped off". The prisoners were then lined up and the accused, with five or six others, practiced target shooting with the prisoners as targets. The accused shot one of the prisoners, examined the body and determined that he was dead (R 1437, 1438; P-ex 113). The occurrence of this shooting incident is corroborated by the extrajudicial sworn statement of REUH who added that Dutschke also said in connection with his statement that the prisoners had to be "bumped off", that FREUSS, commander, 10th Panzer Grenadier Company, "is all for it" (R 1429, 1430, P-ex 112). Freimuth, in his extrajudicial statement, described this incident of killing American prisoners of war on 23 December 1944 and stated that the accused called to other members of the company, saying, "Faster, don't you want to participate?" (R 1470, 1471; P-ex 114). The accused and witnesses, above named, indicate by their extrajudicial sworn statements that after being informed by Corporal Dutschke that the prisoners had been brought in, the enlisted men and noncommissioned

officers present agreed upon the target practice, after an exchange of light conversation (R 1429-1431, 1437-1439, 1470, 1471; P-exs 112, 113, 114).

The accused further stated in his extrajudicial sworn statement that he was standing two houses away from the command post of PEIPR in the morning of 23 December 1944, in Le Gleize, when a lieutenant came out of the command post. The lieutenant pointed to three American prisoners of war who had their hands raised and clasped behind their necks and ordered the accused to go along with two German guards and shoot the prisoners. The prisoners were led behind a house near a field and the accused aimed at one of the prisoners from a distance of about one meter, fired two shots, and the prisoner fell forward dead. The remaining two prisoners were shot at by the other two guards (R 1438, 1439; P-ex 113).

Evidence for Defense:

Le Gleize. Noerner testified that he was with the accused all day on 20 December 1944 on the road between Le Gleize and Stoumont and there were no American prisoners of war shot. He did see an American major and two soldiers taken away (R 2903, 2904). Lott testified that the accused was an ordnance man responsible for the maintenance of vehicles and that from 20 to 23 December the accused was with the broken down tank of Corporal Schwartz in Le Gleize (R 2892, 2893). The sergeant tapped the accused with his elbow as an indication to start the shooting (R 1439).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate but if he did, it was pursuant to superior orders. The Court might well have concluded that no specific order was given to the accused in the target practice incident of 22 December 1944 and that the plan was conceived by the participants themselves. There is no element of superior orders present in that incident, except for the campaign plans and orders of various levels of command for the application of terrorism. It is clear that the accused willingly complied with such plans and orders. There was no military excuse and there is nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused's mother, undated.

Recommendation: That the findings and sentence be approved.

59. Franz SLEVERS

Nationality:	German
Age (May 1945):	31
Civilian Status:	unknown
Army Organizations:	Wehrmacht, April 1936 to May 1945
Military Status:	First Lieutenant, Commander, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Plot:	NO
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that the order for Combat Group Peiper contained statements to the effect that, if necessary, the resistance of the enemy was to be broken by terror and, if the situation required it, prisoners were to be shot. This order was explained by Postschke at a meeting of company commanders on 15 December 1944. On the evening of the same day the accused transmitted these instructions to the platoon leaders of his company (R 387-389; P-ex 25). The transmission of this order by the accused to the members of his company is corroborated by the extrajudicial sworn statements of Joachim HOFMANN (R 645; P-ex 46), HAMMERER (R 1411, 1412; P-ex 110), SPÄNGER (R 618, 619; P-ex 44), JIRNL (R 681; P-ex 49), Boltz (R 711; P-ex 51), and WISENBERGER (R 727; P-ex 54). The four last named also refer to similar speeches by Seitz and Beutner, platoon leaders in the accused's company. The testimony

of Lettenmyer also indicates that Seitz made such a speech (R 396).

The Crossroads. SCHAEFER stated in his extrajudicial sworn statement that he was at the Crossroads in the afternoon of 17 December 1944 and saw the accused and members of the accused's company participate in the shooting of surrendered and unarmed prisoners of war (R 1399, 1400; P-Ex 109).

SPRENGER stated in his extrajudicial sworn statement that the accused was among a group of German officers and soldiers who were in the pasture shooting American prisoners of war who were still alive (R 623, 624; P-Ex 44).

La Gleize. SPRENGER stated in his extrajudicial sworn statement that on 22 December 1944 in La Gleize GOLDSCHMIDT told him that the accused and others shot 15 American prisoners of war in back of a schoolhouse (R 633; P-Ex 44).

Stoumont. RUMPF stated in his extrajudicial sworn statement that the accused positively told him that on 21 December 1944 the accused fought outside a castle near Stoumont which was solidly defended by the Americans. In the rooms of this castle were some Americans who indicated that they wanted to surrender, but he permitted his men to shoot "penzerfrusten" into the rooms (R 740; P-Ex 55).

SPRENGER stated in his extrajudicial sworn statement that he approached the accused in Stoumont while he was talking to PEIPER. SPRENGER could not hear the conversation, but he saw the accused turn toward three American prisoners of war and shoot them with his pistol. The accused fired three or four shots at them. SPRENGER saw the Americans fall to the ground (R 631, 632; P-Ex 44).

SCHAEFER stated in his extrajudicial sworn statement that in Stoumont on 19 December 1944 the accused ordered SCHAEFER to have two prisoners of war shot and this order was passed on by SCHAEFER to SPRENGER who executed the order. Later, in the same vicinity, the accused gave SCHAEFER a similar order for the shooting of three additional surrendered and unarmed American prisoners of war. Pursuant to this order these

prisoners were killed (R 1400, 1401; P-Ex 109). These incidents are corroborated by the extrajudicial sworn statements of Joachim HOFMANN (R 651, 652; P-Ex 46) and NEVE (R 671, 672; P-Ex 48).

JAKEL stated in his extrajudicial sworn statement that the accused gave an order in Stoumont that prisoners of war were to be mowed down (R 690; P-Ex 49).

Evidence for Defense:

Instructions to Subordinates. The accused testified that he never saw a regimental order which contained statements that the enemy's resistance, if necessary, was to be broken by terror; that he did not have a company meeting in Blinckenheim Forest on 15 December 1944; that he did not tell his men at any time to shoot prisoners of war; and that he did not say anything regarding the treatment of civilians or the use of terror methods (R 2349-2350). This is corroborated by the testimony of Trott (R 2387-2388), GOLDSCHMIDT (R 2409-2411; D-Ex 5), Boltz (R 2476) and Kämpfe (R 2389, 2390).

The Crossroads. The accused further testified that he did not pass the Crossroads on 17 December 1944 until about 1900 hours, at which time it was already dark (R 2357). This is corroborated by Trut (R 2601, 2602). The accused further stated that he did not see any prisoners of war at the Crossroads nor did he see the bodies of any who had been shot. SCHNEF ER was in his vehicle and passed the Crossroads at the same time (R 2358).

Le Gleize. The accused denied by his testimony that he had participated in the shooting of 15 American prisoners of war in back of the schoolhouse in Le Gleize on 22 December 1944. He stated that he was in Bergoumont all day 22 December 1944 (R 2360).

Stoumont. The accused further denied in his testimony that he told HILF that he shot prisoners of war in the castle near Stoumont. He stated that he was ejected from the castle by American troops (R 2362, 2363).

The accused denied that he gave any order to SCHEFFER to have American prisoners of war shot (A 2361).

Pre-trial Interrogations. The accused testified that after solitary confinement for three months, he was interrogated on 25 February 1946 in Scheibisch hall for the first time. He was asked his name and upon replying "Sievers", he received a blow on the mouth. Then he was pushed into a cell with his face toward the wall where he received a blow on his right hand. Shortly afterwards a hood was torn off his head. Two interrogating officers were standing in the cell. The accused was told to bare the upper part of his body. When he took off his shirt, they said: "You pig, you smell of perspiration. You haven't washed lately. Pick up your arms". The accused stated he had not had an opportunity to bathe in the last twelve weeks. He only received two or three liters of water daily for washing (A 2350, 2351). The accused was pushed against the wall by Mr. Thon who said he was the public prosecutor. The accused was told that he had shot at prisoners of war with a bazooka. The accused further testified that Mr. Thon told him he should bring in a violin or a rope so the accused could finish his life. The accused responded that it was not necessary as he did not have any American prisoners of war on his conscience. When Lieutenant Perl wanted to give him some tobacco for a cigarette, Mr. Thon jumped up immediately and said: "That guy's not going to get any tobacco. He will have to confess first". Then he was confronted with several men of his company. The first one that was led in was SPRENGER, who was put under oath in the regular manner and then asked if he knew the accused (A 2352). The accused was then put into a machine room. Lieutenant Perl showed him some men working there. He said they were all from the Adolf Hitler Division and now had a good life because they had confessed. On the way back Lieutenant Perl said: "Sprenger shot upon your order and he only will get six to eight months and then he'll be free again, and you acted upon orders of Peiper and you carried out the order. What could happen to you? You are just a

little Obersturmfuehrer. We don't even want you. We don't even want Peiper. We want Joepf Dietrich and we'll have a trial for him about which the world will gaze with wonder". The accused was moved by that and made his first statement which was immediately torn up by Lieutenant Perl because he was not satisfied with the contents. Then the accused wrote another statement which was dictated to him, P-Ex 12. He was then taken to the famous death cell by Lieutenant Perl. In the afternoon the accused was again called out for interrogation. He still did not know of any order. He finally became tired of this treatment and wrote another statement, P-Ex 25. The accused frequently protested and once got up and said that he would not have any more dictated to him. Lieutenant Perl kicked him and told him to sit down and write or he would be beaten. The accused asked Lieutenant Perl for permission to relieve himself, but was refused. The accused was again interrogated on 11 March 1946. He was told to change his statement and, on his refusal, was threatened with hanging. The accused was compelled to stand in the hall for four hours with a hood on his head. The interrogating officer came quite often and asked his name. When the accused did not answer he was hit in the stomach (R 2353, 2354).

Lieutenant Perl testified that he did not strike the accused in the mouth, on the head, or in the stomach during the interrogation of the accused, or at any other time. Neither did he kick him at any time. He did not refuse him permission to relieve himself (R 2936).

Mr. Wray Then testified that he never struck or threatened the accused at any time (R 2941).

Sufficiency of evidence: Apparently the theory of the defense is to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism, which the accused is an officer in an essential Nazi organization actively supported. There is nothing in mitigation.

The evidence is conflicting as to the methods used in the pre-trial interrogations of the accused. It was for the Court to determine whether the accused's statements made during such interrogations were voluntary and whether he was induced to state untruths. The accused's extrajudicial sworn statement, P-ex 25, referred to above, is corroborated by those of six co-accused. It does not appear that the Court assigned inappropriate probative value thereto. In any event, the conclusions of the Court are adequately supported by other evidence.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused, 22 June 1947, 10 November 1946 and 28 October 1946; and his wife, Erika Sievers, 9 May 1947, 30 January 1947, 10 November 1946 and 16 September 1946.

Recommendation: That the findings and sentence be approved.

60. Hans SILPOTTT

Nationality:	German
Age (May 1945):	26
Civilian status:	Unknown
Nazi Organizations:	Waffen SS, November 1938 to May 1945
Military status:	Master Sergeant, Platoon Leader, 3rd Platoon, 7th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Flot:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that he arrived at the Crossroads in the early afternoon of 17 December 1944. He saw approximately 60 American prisoners of war,

surrendered and unarmed, standing in a pasture at the right side of the road. Opposite these prisoners of war were two or three personnel carriers which he was about to pass when he was waved to a stop. The commander of one of the personnel carriers told him to shoot into the prisoners. The accused responded that he did not have enough ammunition. While this conversation was taking place, the accused observed a member of his platoon, FLEPS, with pistol in his hand and apparently eager to shoot. The accused permitted FLEPS to fire two shots. Then the accused told FLEPS to shoot. When he looked toward the spot where FLEPS had shot, he saw one of the prisoners collapse and two other Americans, first aid men, hurry to help the victim (R 561, 562; P-Ex 39).

The accused was seen at the Crossroads by CLOTTEN (R 567, 568; P-Ex 40). FLEPS stated in his extrajudicial sworn statement that the accused gave him the order to shoot (R 544; P-Ex 38).

Evidence for Defense:

The Crossroads. The accused stated in his extrajudicial sworn statement that he permitted FLEPS to fire at prisoners of war at the Crossroads because he was influenced by a speech made by his company commander, KLINGELHOFFER, on 16 December 1944 in which the latter said that no prisoners were to be taken (R 561, 562; P-Ex 39).

Sufficiency of evidence: The Court might well have concluded that the accused's explanation of the Crossroads shooting incident should not be completely accepted, and believed FLEPS' version, i.e., that the accused ordered FLEPS to shoot. Viewing the accused's version in the most favorable light, under all the circumstances the accused's silence while FLEPS prepared to shoot and while he was shooting was the equivalent to actively giving a command to shoot.

Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of

terrorism. The Court might well have concluded that the accused wholeheartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 25 December 1946. A Petition for Clemency was filed by the accused's father, Rudolf Siptrott, 20 September 1946.

Recommendation: That the findings and sentence be approved.

61. Gustav Adolf SPRENGER

Nationality:	German
Age (May 1946):	20
Civilian Status:	Unknown
Nazi Organizations:	Weissen SS, May 1943 to May 1945
Military Status:	Private First Class, Personnel Carrier Driver, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Plc:	NO
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution

The Crossroads. The accused stated in his extrajudicial sworn statement that he arrived at the Crossroads about 1300 to 1400 hours on 17 December 1944. He stopped by capture and saw 50 to 60 American soldiers still turning and twisting in their own blood. He left his personnel carrier and went into the field with Altkruger and Biloschetsky. They were approached by Sergeant Beutner and told by him to shoot those who were still alive. Accordingly, the accused, Altkruger, and Biloschetsky shot with their machine pistols at those Americans who lay on the ground and showed signs of life. The accused fired one magazine (42 rounds) at five Americans who had not yet died. They did not show any sign of life after he had finished shooting

(H 623-625; P-ex 44).

This is corroborated by the extrajudicial sworn statement of SCHAEFER (R 1399-1400; P-ex 109).

Stoumont. The accused stated that while he was in Stoumont on 19 December 1944 he was standing alongside his parked personnel carrier late in the morning when two unarmed American soldiers came around a corner carrying a wounded German soldier. Nearby were Sergeant SCHAEFER, the accused's group leader, and First Lieutenant SILVERS, the accused's company commander. SCHAEFER ordered the accused to take the two American prisoners down the street and to "knock them off". When the accused answered that he had never done such a thing before, SCHAEFER called him a coward and told him to carry out the order. The accused then took the American prisoners down the street and shot them (R 627, 628; P-Ex 44).

Later the same day, the accused shot another American prisoner of war who was surrendered and unarmed and was lying on a stretcher (R 629, 630; P-ex 44). The occurrence of these two killings by the accused are corroborated by the extrajudicial sworn statements of SCHAEFER (R 1399-1402; P-ex 109), and Joachim HOFMANN (R 651-653; P-ex 46), BEVE (R 671-672; P-ex 48) and, to a certain extent, by the statement of Holtz (R 715; P-ex 51).

A resident of Stoumont, Albert Jourdain, testified that on 19 December 1944 he saw the corpses of five American soldiers lying approximately at the same place in Stoumont indicated in the accused's statement as the scene of the two incidents (R 1407, 1408).

Evidence for Defense:

The Crossroads. The shooting at the Crossroads by the accused of Americans lying in the field was, according to his statement, in obedience to the direct order of his superior, Sergeant Boutner (R 623-625; P-Ex 44).

Stoumont. The accused stated that the first shooting in Stoumont in which two American prisoners of war were shot was pursuant to the direct order of his superior (R 627, 628; P-Ex 44).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1945. A Petition for Clemency was filed by Lieutenant Colonel Burton F. Ellis, Trial Judge Advocate, 29 July 1946.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 15 years, commencing 16 July 1946.

62. Werner STERNEBECK

Nationality:	German
Age (May 1946):	25
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, April 1937 to May 1945
Military Status:	First Lieutenant, 6th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Wanne. The accused stated in his extrajudicial sworn statement that on 20 December 1944 in Wanne he received an order to round up all suspicious looking males in one-half of Wanne and shoot them because an enemy radio transmitter was located there. The accused in turn gave this order to his tank crew and stated that a secret radio transmitter was in the village and they had to find it. The accused also told his driver and his radio operator to look for suspicious looking Belgian civilians and in case they found any to shoot them. About one-half hour later the driver reported that he had executed the order by shooting one Belgian. The accused answered, "Allright" (R 1151, 1152; P-Ex 86).

Zimmer testified that the accused was his tank commander. The witness heard the accused say on 20 December 1944 in Wanne that resistance must be broken without showing any consideration. Later that day the witness saw the bodies of four Belgian civilians in the church (R 1154, 1155).

Evidence for Defense:

Wanne. Zimmer was recalled as a witness for the defense. He testified that during the Ardennes Offensive he entered Wanne about 1500 hours 20 December 1944 and rode in the tank of the accused (R 2671). In Wanne he overheard a conversation between the accused and his driver to the effect that civilians offering resistance should be shown no consideration. Subsequently the witness received an order from the accused to go

to the church to locate the hidden radio station (R 2672).

Sufficiency of Evidence: It was for the Court to determine the weight of the evidence and the credibility of the witnesses, including the unusual reversal of position of witness Zimmer after an interval of four weeks.

apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused, 16 October 1946.

Recommendation: That the findings and sentence be approved.

63. Heinz STICKEL

Nationality:	German
Age (May 1946):	20
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, December 1943 to December 1944
Military Status:	Private First Class, Machine Gunner, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

The Crossroads. The accused stated in his extrajudicial sworn statement that the personnel carrier in which he, JAKEL and Witkowski were riding arrived at the Crossroads on 17 December 1944. They stopped by a pasture in which approximately 60 surrendered and unarmed American prisoners

the accused to shoot at these prisoners. In compliance with the order he proceeded to fire the machine gun located in the front of the personnel carrier. He fired approximately one belt (50 rounds) at the prisoners. Those who were shot were apparently dead as they did not move any more (R 705, 706; P-Ex 50).

JAKEL stated in his extrajudicial sworn statement that he saw the accused walking among the prisoners in the pasture (R 687; P-Ex 49). The fact that the accused was manning a machine gun at the Crossroads when the firing at the prisoners started is corroborated by the extrajudicial sworn statement of Joachim HOFMANN who was assigned to the accused's platoon (R 649; P-Ex 46).

Evidence for Defense:

The Crossroads. The accused stated in his extrajudicial sworn statement that the shooting of prisoners of war at the Crossroads was pursuant to the direct order of his superior (R 705, 706; P-Ex 50).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence of death by hanging be commuted to imprisonment for 15 years, commencing 16 July 1946.

•4. Herbert STOCK

Nationality:	German
Age (May 1946):	20
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, October 1943 to March 1945
Military Status:	Private First Class, Rifleman, 2nd Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

La Gleize: The accused stated in his extrajudicial sworn statement that he arrived in La Gleize about 1400 hours 18 December 1944. He saw a church and a cemetery surrounded by a wall on the right side of the street. There were approximately 10 or 15 unarmed and surrendered American prisoners of war standing before a house near the church. The accused was riding in the personnel carrier of Corporal Wittwer, the platoon leader. As he passed the house where the prisoners were standing, Wittwer said that these prisoners were to be shot. Wittwer immediately fired into the prisoners with his machine pistol and shouted to the rest of the crew to shoot. All members of the crew opened fire on the Americans. The accused took a good aim at the forehead of one American soldier and fired one shot. This prisoner then fell to the ground (R 1248; P-Ex 96). Freimuth stated in a pretrial unsworn and unsigned statement that the accused told him that he, the accused, had shot prisoners by a wall in La Gleize (R 1468-1470; P-Ex 114).

About 1030 hours on 22 December 1944 the accused was in a house in La Gleize with Sergeant Schumacher. A messenger came and told Schumacher to report to FREUSS. When Schumacher returned, he said that 20 prisoners of war would have to be shot. A detail, including the accused, was made up to shoot the American prisoners of war. The prisoners were lined up with

their backs to the inside of the wall surrounding the church. The accused, upon the order of the sergeant in charge of the detail, fired two well-aimed shots at the foreheads of two American prisoners standing directly in front of him. Both of these prisoners fell to the ground (R 1250, 1251; P-Ex 96).

Shortly after the accused had returned to the cellar of the house where he was staying, he received an order from Sergeant Schumacher to report to Corporal Wittwer. Around 1500 hours 22 December 1944 Wittwer told the accused to come with him. A few minutes later Wittwer and the accused met a German soldier with two unarmed and surrendered American prisoners of war. Wittwer took charge of the two prisoners. Wittwer and the accused marched the prisoners to a pasture and required them to stand with their backs to the edge of a bomb crater while the accused shot them. Wittwer threatened to shoot the accused, if he did not shoot the prisoners. Thereupon the accused shot the two prisoners (R 1251; P-Ex 96).

Evidence for Defense:

La Gleize. According to the extrajudicial sworn statement of the accused, each shooting in which he admitted participation was performed in obedience to orders of a superior (R 1248, 1250, 1251; P-Ex 96).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that he was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

65. Erwin SZYPERSKI

Nationality:	German
Age (May 1946):	21
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, March 1944 to May 1945
Military Status:	Corporal, Tank Driver, 3rd Platoon, 2nd Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Stoumont. The accused stated in his extrajudicial sworn statement that about 1400 or 1500 hours 19 December 1944 he arrived at a point about one or two kilometers west of Stoumont. There he saw 10 or 15 unarmed and surrendered American prisoners of war guarded by two or three Germans. Sergeant Brauschke, commander of the tank driven by the accused, gave the command to "bump off" these prisoners and to commence firing. The accused then fired two bursts from a machine pistol into the prisoners who were hit and slumped to the ground, apparently dead (R 1342, 1343; P-Ex 102). This incident is corroborated by the extrajudicial sworn statement of RITZER, a member of the same tank crew as the accused (R 1305, 1306; P-Ex 99).

Near the place where the above incident occurred and at about 1800 hours on the same day, according to the extrajudicial sworn statement of the accused, Brauschke and the accused saw 10 surrendered and unarmed prisoners of war being marched toward Stoumont by a German guard. German paratroopers started shooting at these prisoners with a machine gun and Brauschke ordered the accused to shoot also. The accused shot two or three prisoners with his machine pistol and saw that they were hit. Although it was dark, the accused could see by the light of a nearby

burning tank (d 1343, 1344; P-Ex 102).

Evidence for Defense:

Stoumont. The accused stated in his extrajudicial sworn statement that his participation in both shooting incidents near Stoumont was pursuant to orders of his superior (d 1342-1344; P-Ex 102).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A petition for review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

66. Edmund TOMCZAK

Nationality:	German
Age (May 1946):	23
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, August 1944 to May 1945
Military Status:	Corporal, 4th Platoon, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

Stoumont. BRAUN stated in his extrajudicial sworn statement that in the morning of 19 December 1944 in the vicinity of Stoumont, BRAUN, FRIEDRICHS and the accused were riding in a personnel carrier commanded by Sergeant Schumacher who stopped a paratrooper coming down the road with seven American prisoners of war and took over the prisoners. Schumacher then took the prisoners into a pasture and lined them up in a row. He then ordered the entire crew of his vehicle to dismount with hand weapons and kill these prisoners of war. Every member of the crew shot at these surrendered and unarmed prisoners of war (R 1380; P-EX 106). This is corroborated by the extrajudicial sworn statement of FRIEDRICHS (R 1395, 1396; P-Ex 108).

Evidence for Defense:

Stoumont: It is indicated in the extrajudicial sworn statements of BRAUN and FRIEDRICHS that the accused shot the prisoners in obedience to direct orders from his superior (R 1380, 1395, 1396; P-Exs 106, 108).

Sufficiency of Evidence: The accused shot prisoners of war in the presence of a superior in conformity with his direction. The Court apparently concluded that by the evidence on behalf of the accused in support of superior orders that the accused met the burden of proof required by the authorities discussed in Section V, supra, and proved he acted under immediate compulsion to a degree.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for review was filed by American defense counsel, 28 December 1946. A Petition for Clemency was filed by the accused's mother, Maria Tomczak, 12 September 1946.

Recommendation: That the findings and sentence be approved.

67. Heinz TOMHAUPT

Nationality:	German
Age (May 1946):	24
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, March 1940 to May 1945

military Status:	First Lieutenant, Commander, 11th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Instructions to Subordinates. The accused stated in his extrajudicial sworn statement that on 16 December 1944 he spoke before his assembled company and pointed out that a decisive battle of the war was about to begin; that they had to fight ruthlessly; and that they were not permitted to take prisoners (R 348, 349; P-Ex 20). GODICKE and HECHT stated in their extrajudicial sworn statements that the accused said in his speech that there was an order not to take prisoners of war and to shoot without mercy civilians who were on the streets or at windows (R 1214, 1222, 1223; P-Exs 91, 92). The fact that the accused said in his speech that no prisoners of war would be taken is substantiated by the extrajudicial sworn statements of RICHTER (R 1227, 1228; P-Ex 93) and STOCK (R 1246, 1247; P-Ex 96) and the testimony of Heinrich (R 368, 369).

SIEGMUND stated in his extrajudicial sworn statement that he would not have shot the prisoners of war on the road from La Gloize to Steumont on 20 December 1944 had he not recalled the speeches of HENDEL and the accused (R 1435, 1436; P-Ex 113).

Evidence for Defense:

Instructions to Subordinates. The accused testified that at the company meeting on 16 December 1944 he told his men that they were not to bother with prisoners of war as this was to be left to the infantry which would follow (R 2227, 2228). This is corroborated by the testimony of Agather (R 2255, 2256) and Albrecht (R 2261). The accused testified that his reference to shooting civilians was to armed civilians (R 2228).

Pre-trial Interrogations. The accused testified that at Schwabisch Hall on 2 March 1946 he was called for interrogation. Before his interrogation, and while he was standing in the hall with a hood over

his head, he was beaten in the face and stomach. He did not know who hit him. This beating he considered as being for purposes of intimidation. These beatings in the face impressed him so much because on the same morning he saw a hood with blood on the inside. During the interrogation he was confronted with an officer comrade and a bloody hood was placed on his head. The interrogation was carried out by Lieutenant Perl. Mr. Thon was there temporarily. During the interrogation he was confronted by four men of his company, all of whom maintained that they had shot prisoners and that they had received an order from the accused to shoot prisoners and civilians. The accused knew that there were about 35 men of his company in Zuffenhausen, a preparation camp for Schwaebisch Hall. He asked Lieutenant Perl to confront him with other men who had not shot prisoners. Lieutenant Perl told him: "These four men are quite sufficient to hang you. You will hang if you do not admit having gotten an order. We won't even consider the other men" (A 2230, 2231).

In the course of these interrogations several written statements of some of his officer comrades were shown to him and all of them maintained that an order to shoot prisoners existed in Combat Group Peiper. In spite of this the accused could not remember the order. Due to the fact that he was made uncertain as to the existence of the order after being confronted by his men and being shown these written statements, he asked for some time to think which was granted to him in the so-called death cell. He remained there for six days during which time he received no rest, day or night (A 2230, 2231). During four nights at varied intervals of time the sentries would knock against the door. He was only able to sleep one night. During the day the accused heard cries of agony which seemed to be suppressed every time, as though something was thrown in the face of the one crying out. At that time the accused thought about the fact that during the Ardennes Offensive he had men in his company who were only 17 and 18 years old, and he thought that it would be easy to get these inexperienced men to make any kind of confession through this style of treatment. In the mental depression which followed, he was discouraged with the prospects of receiving justice (A 2232). On 7 March he was again confronted with some

man from his company, among whom was a man who had not been present on the first occasion. After being yelled at from two sides, and after he was cursed and spit at, the accused permitted a statement to be dictated to him. In answer to the question, who spit at him, the accused stated: "Mr. Thon - at that time I was in a spiritual and mental state such that nothing seemed to matter to me. Usually one is relieved after one makes a confession. However, I did not have that feeling and I am sure that the interrogating officers felt the same way, since I heard several times from conversations in front of my door, by the guards, that they had the express order to guard me particularly severely." (A 2233).

Lieutenant Perl testified that he did not strike the accused in the face or stomach during the time the accused was standing in the hall with a hood over his head. He also denied having beaten him or having caused any of the accused's men to be beaten before they were confronted with the accused. Lieutenant Perl also denied threatening the accused with hanging during any interrogation or at any other time. He did not instruct the guards at Schwabisch Hall to prevent the accused from acquiring any rest, day or night. The guards were not under his command. Lieutenant Perl also testified that he never saw blood on any of the hoods which were used at Schwabisch Hall (A 2935).

Mr. Thon testified that he never struck the accused in the face or in the stomach nor did he ever touch him (A 2940). Mr. Thon further testified that he never beat any of the men who confronted the accused; that he never caused them to be beaten; and that he did not threaten the accused with hanging, nor did he instruct the guards not to let the accused get any rest. He never saw blood on any of the hoods at Schwabisch Hall (A 2941).

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign

and that there was no military excuse or justification and nothing in mitigation.

The evidence is conflicting as to the methods used in the pretrial interrogations of the accused. It was for the Court to determine whether the accused's statements made during such interrogations were voluntary and whether he was induced to state untruths. The accused's extrajudicial sworn statement, P-Ex 20, referred to above, is corroborated by the extrajudicial sworn statements of four co-accused and the testimony of one witness. It does not appear that the Court assigned inappropriate probative value thereto.

However, the evidence does not indicate that he killed prisoners of his own acts or that he gave orders so to do other than to relay the general campaign plans and orders. It is believed these circumstances must be given consideration.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by the accused's father, Peter Tomhardt, 25 September 1947 and 9 September 1947; his mother, Maria Tomhardt, 19 June 1947, 12 October 1946 and 5 November 1946; and his fiancée, Annolie Bunk, 7 November 1946.

Recommendation: That the findings and sentence be approved, but that the sentence to death by hanging be commuted to life imprisonment.

68. August TOMK

Nationality:	German
Age (May 1946):	35
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, August 1933 to March 1937; March 1940 to May 1945
Military Status:	Master Sergeant, Tank Commander, 2nd Platoon, 6th Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Flea:	NG

in Stavelot through the door. He could not say for sure whether the other two men who were on the mission with him left his presence during the accused's absence. Zimmer testified further that he did not know which of the three men, if any, entered the house; that he did not hear any screams coming from the house; that he could not say who fired the shots; that when he returned to the command post, he stopped in the room outside while the accused went inside. The door between the two rooms was closed and there were 10 to 15 infantry men in the same room with the witness. Some were engaged in conversation and some were sleeping. Zimmer heard only the words "fruit" and "civilians." He testified that the statement he made in his earlier testimony to the effect that the accused had reported back and brought some fruit for which two civilians had to "kick the bucket" was not the truth. He made the statement, "two civilians had to kick the bucket" because he had previously expressed it during an interrogation in Schwaebisch Hall when he was excited because Polish guards came to his cell and wanted to beat or hang him (R 2633-2647).

Sufficiency of Evidence: It was for the Court to determine the weight of the evidence and the credibility of the witnesses, including the reversal of position by witness Zimmer after the lapse of about a five week interval. He made a like reversal in his testimony concerning STERNHECK, supra.

Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence* is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 26 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

Findings:

U

Sentence:

Death by hanging

Evidence for Prosecution:

Stavelot. STERNBECK, a first lieutenant in the accused's company, stated in his extrajudicial sworn statement that in the evening of 18 December 1944 in a village two or three kilometers east of Stavelot he received an order from JUNKER, his company commander, which he passed on to the accused who was a first sergeant in JUNKER's company. The order directed him to go with four or five soldiers to Stavelot and look for American gasoline. Between 2100 and 2200 hours the same night, the accused reported to STERNBECK that he was not able to find any gasoline, but he had found a jar of fruit in a house. He offered the fruit to STERNBECK and stated something which could only have meant that two civilians had been killed (R 1126, 1127; P-Ex 84).

Zimmer testified that he accompanied the accused on this mission and that the accused went into a house while the witness waited outside. Zimmer heard two pistol shots coming from inside the house. The accused was gone for about five minutes and returned with some fruit. They both ate some of the fruit and then returned to the command post where Zimmer heard the accused say that he had brought some fruit along and that two civilians had to "kick the bucket" (R 1110, 1111). The witness identified P-Ex 83 as a photograph of the house which TOMK entered (R 1112-1115).

A resident of Stavelot, Francois Close, testified that he found the bodies of Jean and Camille Tombeux by the house of Louis LeClour which is the same house as that identified by Zimmer (P-Ex 83) as the one visited by the accused and Zimmer. The bodies were found on the opposite side of the house from the side which is shown in the photograph admitted in evidence and they were lying approximately three or four meters from the house. The bodies had wounds in their necks (R 1132, 1133, 1135, 1136).

Evidence for Defense:

Stavelot. Zimmer was recalled to the stand by defense counsel and testified in substance that he did not see the accused enter the house

69. Hans TRETTIN

Nationality:	German
Age (May 1946):	19
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, May 1943 to May 1945
Military Status:	Private First Class, Leader, 2nd Platoon, 1st Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Life Imprisonment

Evidence for Prosecution:

Wanne. The accused stated in his extrajudicial sworn statement that his vehicle arrived in Wanne about noon 21 December 1944. The tank of Sergeant BERSIN was already there. Second Lieutenant Heubeck was in command of the accused's vehicle and of BERSIN's tank. After about an hour or two in Wanne, BERSIN came to the accused and stated that Heubeck had ordered that all the male Belgian civilians over the age of 16 years were to be rounded up and shot, and that the accused was to accompany BERSIN in carrying out this order. BERSIN saw KOTZUR with a civilian and told the accused to go up to KOTZUR and shoot the civilian. BERSIN added that he would send other civilians for the accused to shoot. When the accused arrived, KOTZUR said, "Shoot the man, my pistol is jammed." The accused shot the man in the neck and after he fell to the ground he shot him again in the head (R 1172, 1173; P-Ex 88).

The accused then saw another civilian come out of a house and proceed in his direction. He asked KOTZUR to shoot this one but upon being informed by KOTZUR that his pistol was still not working, the accused led the civilian to the same place where he had shot the first one and proceeded to shoot the second to death (R 1172, 1173; P-Ex 88).

These incidents are corroborated by the extrajudicial sworn statements of KOTZUR and BERSIN (R 1160-1162, 1177, 1178; P-Exs 87, 89).

The testimony of Schneider (R 1167, 1168), Hemreulee (R 1180, 1181), Milbers (R 1187, 1188), Englebert (R 1198, 1199), and the extrajudicial sworn statement of Brecht (R 1192; P-Ex 90) corroborate the fact that at least one Belgian civilian was killed in Wanne.

Evidence for Defense:

Wanne. The accused stated in his extrajudicial sworn statement that he carried out the shooting of the two civilians in Wanne pursuant to the orders of his superior, Sergeant BERSIN (R 1172, 1173; P-Ex 88).

Sufficiency of Evidence: The accused obviously realized that his acts of participating in the shootings of civilians were inherently wrong and contrary to universally accepted standards of human conduct. His youth was apparently coupled with mental immaturity and relatively narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence to live imprisonment be reduced to imprisonment for 10 years, commencing 16 July 1946.

70. Johann WASENBERGER

Nationality:	Austrian
Age (May 1946):	19
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, February 1944 to December 1944
Military Status:	Private, Rifleman and Assistant Machine Gunner, 2nd Platoon, 3rd Panzer Pioneer Company, 1st Panzer Pioneer Battalion
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

The Crossroads. The accused stated in his extrajudicial sworn statement that in the early afternoon of 17 December 1944 he reached the Crossroads. He stopped by a pasture where he saw a great number of American prisoners who had been shot. Some of them, however, were still alive. After a short conversation between Sergeant BODE, Private First Class Losenski, and Sergeant Bontner, BODE opened fire upon the prisoners who lay on the ground and showed signs of life. Private First Class Losenski pointed at one prisoner of war who was still alive and ordered the accused to give the man a mercy shot. Feeling compelled to carry out this order, the accused shot with his carbine and was certain that death resulted to the prisoner because he did not move any longer (R 727; P-Ex 54). This is corroborated by the extrajudicial sworn statement of JAKEL (R 684-688; P-Ex 49).

Evidence for Defense:

The Crossroads. According to the statement of the accused, he shot the prisoner in compliance with a direct order from his superior (R 727; P-Ex 54).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of a surrendered prisoner of war who was deprived of potential means of continuing as an opponent in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that his military experience was of relatively short duration. He was ordered to and did participate in the killing of a prisoner in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation. Austria was a co-belligerent of Germany.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

71. Gunther WEIS

Nationality:	German
Age (May 1946):	21
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, March 1943 to December 1944
Military Status:	Private First Class, Machine Gunner, 2nd Platoon, 12th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

La Gleize. The accused stated in his extrajudicial sworn statement that on 20 December 1944 he was in La Gleize. While standing before a house he observed three unarmed and surrendered American prisoners of war coming around the corner of a house on the other side of the street. Someone shouted, "Here they come, bump them off". He at once shot the third prisoner in the group by firing one burst of six or seven shots. He did not see where the prisoner was hit but he knew that he was hit inasmuch as the prisoner staggered forward exactly as a man does who has been shot. At the time he shot at the prisoner, other German soldiers also shot, but he did not recall who these soldiers were or where they stood (R 1486, 1487; P-Ex 119).

This account of the shooting of the American prisoners of war is corroborated by the extrajudicial sworn statements of SCHWABACH (R 1482, 1483; P-Ex 118) and ROENBURG (R 1455, 1456; P-Ex 117). ROENBURG also stated that a German guard was walking five to eight meters behind the prisoners.

Evidence for Defense:

La Gleize. Grefmueller testified that he was in La Gleize on 22 December 1944 (the date when the incident occurred according to the statements of SCHWABACH and ROENBURG who were the other two participants in the incident) during the artillery attack and that he saw the accused

near his tank. He did not see any shooting at American prisoners of war (R 2850-2852).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be commuted to imprisonment for 15 years, commencing 16 July 1946.

72. Erich WERNER

Nationality:	German
Age (May 1946):	21
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, August 1942 to May 1945
Military Status:	Corporal, Tank Driver, 2nd Platoon, 2nd Panzer Company, 1st Panzer Battalion, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	Life imprisonment

Evidence for Prosecution:

La Gleize. The accused stated in his extrajudicial sworn statement that about 1130 hours on about 21 December 1944, in La Gleize, Sergeant Pidun from the 1st Panzer Company came to his tank and ordered the accused and Joachim HOFFNER to bring their weapons and come along to form a shooting detail. They all joined Sergeant Knappik and went to a house where Knappik ordered the accused to bring some prisoners of war out of the cellar. The

accused and Joachim HOFMANN then led the prisoners to a place where they were lined up in two rows and shot upon the order of Knappik. The accused shot five times at the head of one of the surrendered and unarmed American prisoners of war and he slumped to the ground (R 1350; P-Ex 103).

The extrajudicial sworn statement of MIKOLASCHEK corroborates the formation of the shooting detail and the fact that the accused was a member of it. MIKOLASCHEK further stated that one-half hour after the detail departed, the accused returned with Knappik who said the American prisoners of war had been "bumped off." In reply to a query as to which ones he "bumped off," the accused indicated that they were the prisoners who had carried ammunition on the previous day. Later, when MIKOLASCHEK was standing in front of Drechsler's tank, he saw the bodies of 15 American soldiers lying in an unusual manner before a stable and concluded that they were the prisoners who had been shot by the accused, Knappik, and Joachim HOFMANN (R 1319; P-Ex 100).

Evidence for Defense:

La Gleize. The accused stated that he participated in the shooting at La Gleize in compliance with the order of his superior, Sergeant Knappik (R 1350; P-Ex 103). Zitzelsberger testified that he was a member of Drechsler's tank crew and he never saw any bodies near or in front of his tank while in La Gleize (R 2885, 2886).

Sufficiency of Evidence: The accused obviously realized that his act of participating in the shooting of surrendered prisoners of war who were deprived of potential means of continuing as opponents in warfare was inherently wrong and contrary to universally accepted standards of human conduct. The evidence indicates that he was ordered to and did participate in the killing of prisoners in the presence of a superior. His youth was apparently coupled with mental immaturity and narrow experience, which combined circumstances should be considered in mitigation.

The findings of guilty are warranted by the evidence. The sentence is excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved, but that the sentence be reduced to imprisonment for 15 years, commencing 16 July 1946.

73. Otto WICHELMANN

Nationality:	German
Age (May 1946):	26
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, October 1938 to May 1945
Military Status:	Sergeant, Headquarters Company, 1st SS Panzer Regiment
Plea:	NG
Findings:	G
Sentence:	10 years, commencing 16 July 1946

Evidence for Prosecution:

Petit Thier. The accused stated in his extrajudicial sworn statement that near the end of 1944 or the beginning of 1945 he was at Petit Thier. He saw an unarmed American soldier, who was so weak that he could not walk, staggering out of the woods. The accused and another German soldier supported the American on their shoulders and brought him to the command post. While enroute, they met other German soldiers who suspected that the American was the one who had escaped the previous day by shooting his German captors. Accordingly, they wanted to shoot him. The accused prevented them from doing so. All of this was reported by the accused to SICKEL, surgeon, 1st SS Panzer Regiment, who stated that if that were true the prisoner must die. FEIFER, however, ordered that the prisoner be brought in for interrogation. After attempting an interrogation, SICKEL said in a loud voice in the presence of FEIFER that the "swine" should be taken out and "bumped off." The accused then took the prisoner out to the edge of the woods and killed him (R 1533-1538; P-Ex 123).

This incident is corroborated by the extrajudicial sworn statements of SICKEL (R 1560, 1561; P-Ex 126), FEIPER (R 1554-1556; P-Ex 125) and GRUHLE (R 1568; P-Ex 127).

Gerardy testified that the body of an American soldier was found near the chapel at Petit Thier (R 1544-1548).

Evidence for Defense:

Petit Thier. FEIPER denied in his testimony that he ordered that the prisoner be shot (R 1963-1965).

The accused claimed in his extrajudicial sworn statement that he shot the American prisoner pursuant to the order of his superior, SICKEL (R 1536; P-Ex 123).

Sufficiency of Evidence: The accused was a party to the common plan and gave his superiors full co-operation in the execution thereof. It appears that the Court amply considered all mitigating circumstances.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. No Petitions for Clemency were filed.

Recommendation: That the findings and sentence be approved.

74. Paul ZWIGART

Nationality:	German
Age (May 1946):	24
Civilian Status:	Unknown
Nazi Organizations:	Waffen SS, November 1939 to May 1945
Military Status:	Sergeant, Personnel Carrier Driver, 9th Panzer Grenadier Company, 3rd Panzer Grenadier Battalion, 2nd Panzer Grenadier Regiment
Plea:	NG
Findings:	G
Sentence:	Death by hanging

Evidence for Prosecution:

Cheneux. The accused stated in his extrajudicial sworn statement that on 18 December 1944 he was in the vicinity of a village (presumably Cheneux). An American jeep occupied by two American soldiers came into contact

with the German column and was immediately fired upon by members of the column. The jeep crashed into one of the German tanks. One occupant was killed and the other played dead. The accused was told by DIEFENTHAL to remove the jeep, as they were in a hurry. The accused went to the jeep and compelled the American soldier who was still alive to dismount from the jeep and place his hands over his head. He then took the American to the edge of the road and shot him to death with a machine pistol (R 1289-1293; I-Ex 97).

This account of the killing of the American prisoner of war is corroborated by the extrajudicial sworn statements of FRIEDRICHS (R 1394, 1395; I-Ex 108) and DIEFENTHAL (R 1300; I-Ex 98), and by the testimony of Rineck (R 1263-1268), Assenmacher (R 1273-1275), and Flohmann (R 1280, 1281).

Evidence for Defense: The accused did not take the stand.

Sufficiency of Evidence: Apparently the theory of the defense as to the accused is that he did not participate, but if he did, it was pursuant to superior orders. There is no element of superior orders present, except for the campaign plans and orders of various levels of command for the application of terrorism. The Court might well have concluded that the accused whole-heartedly supported such plans and orders for the campaign and that there was no military excuse or justification and nothing in mitigation.

The findings of guilty are warranted by the evidence. The sentence is not excessive.

Petitions: A Petition for Review was filed by American defense counsel, 28 December 1946. Petitions for Clemency were filed by Dr. Herman Konig, 15 September 1947; parents of the accused, Mr. and Mrs. Karl Zwigart, 8 June 1947, 28 April 1947, 20 April 1947 and 6 August 1946; Dr. Willy Heremann, 27 August 1946; and Dr. Ursula Lehmann, 10 June 1947.

Recommendation: That the findings and sentence be approved.

75. Helmut ELIAS

This accused was not tried.

76. Eril HERGETH

This accused was not tried.

77. Herbert LOSENSKI

This accused was not tried.

78. Werner IEDERSEN

This accused was not tried.

VII. CONCLUSIONS:

1. It is recommended that the findings of the Court be approved as to all the accused except ECKMANN and that the sentences to death by hanging as to accused BERSIN, BODE, BRIESEMEISTER, CHRIST, DIERENTHAL, GOLDSCHMIDT, HENSEL, HENNECKE, HUBER, KUHN, MAUTE, OCHMANN, IELTER, FREUSS, RAUH, RUMIT, SCHAEFER, SCHWABLOCH, SICKEL, SIEGMUND, SIEVERS, SITTROTT, STERNEBECK, TONK and ZWIGART be approved and ordered executed; that the sentences to death by hanging as to accused FLEIS, HAMMERER, JUNKER, KLINGELHOEFER, MUNKEMER, REHAGEL, and TOMHARDT be approved, but commuted to imprisonment for life and as commuted ordered executed; that the sentences to death by hanging as to accused Joachim HOFMANN, JAKEL, KIES and NEVE be approved, but commuted to imprisonment for twenty (20) years and as commuted ordered executed; that the sentences to death by hanging as to accused RIEDER, RODENBURG, SIRENGER, STICKEL and WEIS be approved, but commuted to imprisonment for fifteen (15) years and as commuted ordered executed; that the sentence to death by hanging as to accused MOTZHEIM be approved, but commuted to imprisonment for ten (10) years and as commuted ordered executed; that the findings of guilty and sentence to death by hanging as to accused ECKMANN be disapproved; that the sentence to imprisonment for life as to accused VON CHAMIER, COBLENZ, DIETRICH, KNITTEL and TOMUZLIK be approved and ordered executed; that the sentences to imprisonment for life as to accused BRAUN, HECHT, Heinz HOFFMAN, KOTZUR, MICHALASCHEK, PIETZ, RAN, RICHTER, RITZER, STOCK, SZYFERSKI, WASENBERGER and WERNER be approved, but reduced to imprisonment for fifteen (15) years and as reduced ordered executed; that the sentences to imprisonment

approved, but reduced to imprisonment for ten (10) years and as reduced ordered executed; that the sentences to imprisonment for twenty (20) years as to accused GRUHLE and TRIESS be approved and ordered executed; that the sentence to imprisonment for fifteen (15) years as to accused FISCHER be approved and ordered executed; and that the sentences to imprisonment for ten (10) years as to accused CLOTTEN, HILLIG, KRAEMER, REISER and WICHMANN be approved and ordered executed.

2. Legal Forms Nos. 13 and 16 to accomplish this result are attached hereto, should it meet with approval.

Richard D Reynolds
RICHARD B. REYNOLDS
Major, ORD

Having examined the record of trial, I concur, this 7th
day of December 1947.

C. E. Staight
C. E. STRAIGHT
Lieutenant Colonel, JAGD
Deputy Judge Advocate
for War Crimes