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# Those Who Said "No!": Germans Who Refused to Execute Civilians during World War II

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Conventional wisdom during World War II among German soldiers, members of the SS and SD as well as police personnel, held that any order given by a superior officer must be obeyed under any circumstances. Failure to carry out such an order would result in a threat to life and limb or possibly serious danger to loved ones. Many students of Nazi history have this same view, even to this day.

Could a German refuse to participate in the roundup and murder of Jews, gypsies, suspected partisans, "commissars" and Soviet POWs — unarmed groups of men, women, and children — and survive without getting himself shot or put into a concentration camp or placing his loved ones in jeopardy?

We may never learn the full answer to this, the ultimate question for all those placed in such a quandry, because we lack adequate documentation in many cases to determine the full circumstances and consequences of such a hazardous risk. There are, however, over 100 cases of individuals whose moral scruples were weighed in the balance and not found wanting. These individuals made the choice to refuse participation in the shooting of unarmed civilians or POWs *and none of them paid the ultimate penalty, death! Furthermore, very few suffered any other serious consequence!*

We know this because their cases and the historical circumstances leading up to their actions and the results which flowed from them have been investigated and verified by witnesses and historical documents, often in exhaustive detail. This was accomplished through the pre-trial investigations and trial records of the various *Land* (state) prosecuting attorneys' offices and/ or the *Zentrale Stelle der Landesjustizverwaltungen* (the Central Office of State

Judicial Authorities for the Investigation of National Socialist Crimes) of the Federal Republic of Germany. These war crimes trials and investigations have been held under the jurisdiction of the states of the Federal Republic of Germany beginning in the mid-1950s and are still going on.<sup>1</sup>

These records are stored in the archives of the *Zentrale Stelle* in Ludwigsburg, near Stuttgart, or in the archives of the cities or states where trials were held in the postwar years. Research in many of these records has enabled the author to document at least eighty-five instances in which one or more individuals refused involvement in the Nazi execution of unarmed human beings during World War II. The author has researched these primary sources including the documentation of recent trials to incorporate them in a more comprehensive way, since the early investigation of this theme appeared in German twenty years ago.

An important piece of early research was done by Herbert Jäger and published in German in 1967.<sup>2</sup> Thus, his analysis does not include investigative and trial data of the last twenty years on at least fifteen cases, which this author is now researching and incorporating. It is also limited largely to a discussion of the consequences of the refusal to kill civilians and POWs, while this paper analyzes not only the consequences but also the methods of refusal/evasion, personal reasons for refusal, legal knowledge, if any, person's branch of service, and the orders given.

A number of important monographs deal with the SS, the treatment of Russian prisoners of war, various postwar German war crimes trials, and judicial issues connected with the theme of refusal to commit war crimes, including the issue of "Befehlsnotstand."<sup>3</sup>

This paper will deal with the following themes: 1) a presentation of several illustrative case studies of individuals who refused to kill civilians or Soviet POWs and their fates; 2) an analysis of categories of individuals who refused; 3) personal reasons for refusal; 4) a summary of different refusal tactics used; and, 5) a summary of consequences for their refusal.

## Case Studies

### Case I

Dr. Albert Battel, a lawyer and Major in the Army Reserve, used the armed forces under his command to try to force the Security Police in Przemysl to stop the "evacuation" or "resettlement" — in reality the execution — of Jews working under his direction there for the Wehrmacht in the summer of 1942.

Born in 1891 in Oberschlesien, Battel became a member of the Nazi Party on May 1, 1933, at the age of 42. He was also a member of the National Socialist Lawyers League (NSRB). A Catholic, Battel lent money in 1936-1937 to a Jewish lawyer, who was to pay him back in legal work. A denunciation led to a Nazi Party court with Battel receiving a warning and inactive membership in the Party for one year. Other judicial investigations of Battel indicated his willingness to help Jews prior to the war.<sup>4</sup>

On July 24, 1942, Wehrmacht First Lieutenant Battel convinced his superior, Ortskommandant Major Liedtke, that they should give the following orders to other officers in their command and to leaders of the Security Police in Przemysl: "In view of the previous actions against the Jews ["resettlement"], the local commander gives orders to bring all Jews working for the Wehrmacht into barracks and place them *under military protection*. They are to be fed and housed, etc., so that they remain able to work."<sup>5</sup>

Battel further persuaded his commanding officer, Major Liedtke, to prevent the Jewish roundup in Przemysl on July 24, 1942, by closing bridges across the San River to SS and Security Police. Battel then forced entrance to the ghetto with his unit and relocated 80-100 Jews in the local army headquarters.

They were able to keep up this resistance for a short time only. Complaints by Martin Fellenz, an SS Hauptsturmführer and Chief of Staff of the SS and Police headquarters in Cracow, and other Security Police leaders to Himmler's personal staff, prompted Himmler to have the case investigated and reported to him personally. Though Battel's Jewish workers escaped this first execution, ultimately, Battel and Liedtke were forced to relinquish them to the control of the SS, with tragic results.

On October 10, 1942, Himmler informed Bormann that it was his intention after the war to arrest Dr. Battel and suggested that at that time, he would initiate proceedings to throw the officer out of the Party. The direct consequences were that Battel was reprimanded and transferred to a front line unit.<sup>6</sup>

Luckily, Dr. Battel escaped Himmler's future intentions. He survived the war and was later honored in Israel for his efforts to save Jews.<sup>7</sup>

His actions were more than mere refusal to participate in executions of Jews under his control; they were direct resistance to the intentions of the SS and SD in Przemysl and Cracow in July 1942. Still, he suffered no serious consequences.

## Case II

Bernhard Griese was able to resist being involved in the execution of Jews by adhering to his military lines of authority and by immediately protesting to his superior. Born in 1887 in Ribnitz, he had already entered retirement in 1936 as a Major in the Schutzpolizei. Reactivated on the outbreak of the war, he was the acting commander of the Schutzpolizei in Rostock and trained a recruit battalion in Tilsit at the beginning of 1941. This police battalion, No. 323, went into action under his command in the area of Georgenburg and later in the forest of Bialowieza. Griese's commander was the BdO (Befehlshaber der Ordnungspolizei) in Königsberg.

In time, Griese was personally asked by an SD officer to provide men for an execution of Jews in the Georgenburg area. Griese immediately ordered his senior captain to represent him at his headquarters and not to allow any of

his police battalion to be used in the proposed execution without his direct order. He travelled immediately to his headquarters in Königsberg and arranged to obtain a written order stating that Griese was only to provide men to the SD if they could provide him with a written order from his commanding officer in Königsberg. Griese obtained this written order from the Chief of Staff of BdO, Colonel Jonas. His BdO, Major General of Police, Karl Franz signed this order.

By his action to obtain this order, Griese refused the request of the SD to have his men participate in the execution of Jews in his area. In fact, the SD had shot the 365 Jews themselves while he was on his journey to and from Königsberg. Nevertheless, the SS and Police started an investigation into his refusal to cooperate. After Griese testified before First Lieutenant Dr. Stud, who came especially to Königsberg from the Main Office of the Ordnungspolizei in Berlin to inquire into the matter, this investigation was dropped.<sup>8</sup> Shortly after this refusal, Griese received the Knights Cross.<sup>9</sup>

### Case III

In a similar case during the summer of 1941, an Ordnungspolizei officer telephoned Rudolf Müller-Bönigk, the Chief of Staff of the BdO in Krakau (Cracow), and explained, "I have just received an order from SS and Police Leader Globocnik that I should execute Russian prisoners of war and Jews. What should be my course of action? I do not wish to participate." He received the answer from Müller-Bönigk that he should not carry out this order, since the role of the Ordnungspolizei was not to execute people. Major General Riege, the BdO in Cracow and Müller-Bönigk's superior, agreed and phoned the police officer back, telling him in the case of a new execution order, the SS and Police Leader Globocnik should be told that the Ordnungspolizei were not hangman's servants for the SS, SD, and Security Police.

The Chief of the Ordnungspolizei in Berlin, informed of Riege's orders, shared this opinion and informed Himmler, who agreed that the Ordnungspolizei units were not to be included in executions. Globocnik lodged a complaint about this incident which led within two months to the replacement and transfer of Police Major General Riege to Prague.<sup>10</sup> No other negative results were experienced by the police officer receiving the original order or by Müller-Bönigk.

### Case IV

A Major of the Schutzpolizei, (possibly Anton Perger?) stationed in Sumy prior to February 1942, received an order from a higher SS leader to use his police battalion to execute Jews. He refused to do this and demanded to have shown to him a legal judicial sentence against those to be executed. He also demanded the presence of a judge and a representative of the prosecution at the proposed execution. He further refused to follow a renewed order for execution;

instead, he informed his regiment of his refusal. The officer was not punished. From this incident came an order to all units of the Schutzpolizei that they were not to be involved in executions.<sup>11</sup>

### Case V

An interesting case of formal refusal by two officers to allow Waffen SS men to participate in any further executions of Jews and Poles occurred in Poland several days after the German invasion of the Soviet Union in late June/early July 1941. The commander of the "Reichsführer-Begleitbataillons z.b.V.", Friedrich Dern, received orders from the Higher SS and Police leader in Lemberg directing one company of his battalion to march to a pre-assigned meeting place on the Weichsel (Vistula) River and await further orders. Untersturmführer (Second Lieutenant) Schreiber led this detached company, which rejoined their Waffen SS battalion in Lublin that same evening.

Schreiber reported to his commander that during that day a portion of his company had been used as an execution squad shooting Jews and Poles. He informed Dern that he refused to carry out any future such executions with his company. He said he would not force that on his men. They were, after all, a trained fighting battalion.

That same evening Dern composed a report to the SS-Führungs-Hauptamt in Berlin in which he clearly and unequivocally refused to allow his battalion to be used in any way as executioners in the future. His report included a report by Lieutenant Schreiber detailing his company's part in the day's executions.

Only a few days later came orders from the SS-Führungs-Hauptamt that the battalion was to be dissolved immediately: the 1st company to be transferred to the SS-Regiment Deutschland, the 2nd to SS-Regiment Germania, the 3rd to Leibstandarte Adolf Hitler and the 4th company, a machine-gun company, was to serve as the core of an anti-aircraft battalion at Arolsen. The battalion staff was to start immediately for Berlin, the commander and his adjutant in their car ahead of everyone else. Dern was to report personally to Gruppenführer Pohl at SS headquarters.

Pohl personally censured Dern for his refusal to obey orders and handed him marching orders. Dern was to report immediately as a Sturmbannführer (Major) on the staff of fighting battalion "Deutsch" in Kirkenes.

Dern suffered no further adverse effects in his professional career as an officer. He was promoted to Battalion Commander of the SS-Jäger-Bat. 1/9 in December 1941 and then Commander of the 14th Galician Volunteer Regiment No.7, where he remained until the end of the war.<sup>12</sup>

### Case VI

A further case, involving a Hauptmannschaftsführer of the Gendarmerie (German Police), shows that advanced thought and decisions

about how to react helped a man remain firm in his decision to reject these unlawful orders, in spite of all efforts to persuade him to change his mind. Walter Entrich, born in 1908 in Berlin, was transferred in mid-April 1943 to Lutzk in the Ukraine to command five police area leaders there.

His superior officer was Oberstleutnant (Lieutenant Col.) Helmut Riebstein of the police, who had often discussed with Entrich the execution of Jews and other persons which had taken place before their arrival. The pair were in full agreement that should such measures take place in the future, they would disassociate themselves and their units, rejecting such actions as unlawful. They had these discussions and made their decisions in part because 450 Jews still lived in the Vladimir-Volinsk district. They assumed that sooner or later an order would come for the execution of these Jews.

Later, as the front began to move back toward their area during late Autumn 1943, Entrich was asked by Günther, the SS and Police Leader for Volynia and Podolia, if he would be prepared to liquidate the several hundred Jews still living there. Because of his earlier discussions with Riebstein, Entrich refused to accept this task, calling it illegal. His personal judgment was that such executions were criminal. Günther attempted to persuade Entrich otherwise, but he remained firm in his decision.

Even though Entrich had refused to carry out the task requested by SS Leader Günther, there were no negative consequences. Riebstein commended Entrich on his behavior and fully supported him in his decision. There were no further attempts to involve either of these officers in executions.<sup>13</sup>

### Case VII

One of the cases of an officer who refused to participate in execution of Russian prisoners of war deserves closer attention. In this case the officer was sent to a concentration camp for about three years. The officer was Dr. jur. Nikolaus Ernst Franz Hornig, an Oberleutnant (1st Lieutenant.) in the Wehrmacht, who later was transferred to a Police battalion because he had been in the police forces prior to his army service.

In October 1941 he was sent to the East as a platoon leader. On November 1, 1941, Hornig received an order from his battalion commander, Major D.,<sup>14</sup> to shoot 780 Russian war prisoners who had been separated out of Stalag 325. They were to be killed by a shot in the neck in a small forest between Lublin and Lemberg.

Dr. Hornig told his commander that he could not carry out this order because of his background as a jurist, Catholic, and army officer. He called his officers and men together and told them of his refusal to carry out this order. Hornig informed them in his own commentary that shooting defenseless people not only constituted a crime but also smacked of "GPU methods," referring to the notorious Soviet secret police.

None of Hornig's men took part in the shootings, though his unit was used to seal off the outer perimeter of the execution site. Dr. Hornig then left the



place of execution and his battalion commander searched for him in vain.<sup>15</sup> Consequently, he was transferred home and there arrested in early May 1942 on the orders of the Chief of the SS and Police Court, Josias zu Waldeck.

Hornig was charged in his first trial with refusal to obey orders and, above all, with seeking to undermine the fighting spirit of his troops (*Wehrkraftzersetzung*) through his speech and example.<sup>16</sup> His refusal to shoot Russian war prisoners became a secondary issue in the trials. The first trial in November 1942 brought a judgment of three to four years in prison for *Wehrkraftzersetzung*. A second trial not held until March 1945 saw a sentence of six to seven years, again for *Wehrkraftzersetzung*. During the course of these proceedings and from at least November 1942 until the end of the war, Dr. Hornig was sent to Buchenwald concentration camp.

Because he continually based his opposition on the paragraphs of the Code of Military Law (especially paragraph 47), the judgments were certainly not harsh enough for Himmler. They were not carried out because Himmler did not sign them. Therefore, Hornig was not treated like an ordinary concentration camp prisoner. He kept his rank and officer's pay. It was a form of investigative arrest. Hornig remained in Buchenwald until the end of the war, even though the March 1945 sentence also was not carried out. Himmler did not sign this one either, perhaps because both prison sentences seemed extraordinarily mild in light of Hornig's very demonstrative form of disobedience.<sup>17</sup>

Dr. Hornig received his punishment and detention in a concentration camp not because of his refusal to execute Soviet POWs, but because he taught his unit about the military and police codes of criminal law which permitted them to refuse illegal orders. This constituted *Wehrkraftzersetzung* in the eyes of the SS and Police Court.

### Statistical Analysis of Refusers

The author's research thus far has turned up in the Ludwigsburg Central Office archives at least eighty-five separate cases of one or more individuals who refused to become involved in the murder of civilians or Russian POWs. These range from Generals in the Army and Police as well as officers in the Waffen SS, SD, and in the *Einsatzgruppen* (the true execution units) to enlisted men in all these branches of service and Party officials. Most often, they were refusing participation for themselves only, but there were at least twelve cases in which officers also refused to allow their units to participate in these murders.

Information has been extracted on six aspects of each case: 1) the individual's branch of service; 2) orders he received relating to his participation in the executions; 3) legal knowledge basis, if any, for his refusal; 4) personal reasons for refusal; 5) methods of refusing/evading orders to carry out executions; and, 6) the consequences, if any, for those refusing to carry out executions. The last three aspects are analyzed explicitly in tables below. Aspects of the first three are included in the text.

**TABLE 1**  
**Personal Reasons for Refusal to Carry Out Execution**

Reason Given	n	%
Reason not given	41	48.2
Humanistic, religious, moral, (reasons of conscience)	23	27.1
Regarded as illegal	15	17.6
Thought would cause emotional disturbance	7	8.2
Not within his role; professional ethos	7	8.2
Thought executions politically disadvantageous	2	2.3

(Note: In several instances more than a single reason was given. Thus, the total number of reasons [ninety-five] is greater than the number of cases reviewed [eighty-five]. The same is true for the other tables.)

#### Personal Reasons for Refusal

The analysis of the motivation for these refusals revealed that forty-one of the eighty-five individuals, nearly one-half, gave no specific personal reasons. Over one-fourth of the total cited humanistic or religious reasons, moral repugnance, and conscience as motivating factors. Among these was one who could not carry out an execution order because of the plea of a Jew among those lined up, who knew him personally, to shoot straight.

Only one in six men regarded the executions as illegal and refused for that reason. Others reasoned that the murders would damage the men carrying them out or that they would create emotional disturbances. An equal number believed that such executions were not within their military or police role, or their professional ethos as a soldier or a professional police civil servant prevented them from participation. Two claimed such murders were politically disadvantageous!

**TABLE 2**  
**Methods of Refusing/Evading Orders to Carry Out Executions**

Methods of Refusing/Evading Orders	n	%
Outright refusal (no other methods stated)*	48	56.5
Refused and reported/protected to superiors	10	11.8
Refused by citing damage to emotional, psychological, or physical health	5	5.9
Refused on grounds of conscience, religion, or moral scruples	8	9.4
Refused on legal grounds; knowledge of bureaucratic exemptions	6	7.1



Asked for or resisted a transfer; resigned from branch of service	13	15.3
Evasion	8	9.4
Refused; claiming execution was not their unit's job	10	11.8
Appealed to economic consequences for the system or threatened force to prevent participation	4	4.7

\*In twelve of these cases, the person also gave orders that his unit would not participate.

### Methods of Refusing/Evading Orders

Tactics used to refuse or evade execution orders were varied. In more than half of those eighty-five cases where such tactics could be determined, the person(s) refused outright. Ten men refused and reported/protested this to their superiors as further insurance against being involved now or in the future. (See case II, Griese; also case III, Müller-Bönigk, above.) Most of these cases involved individuals and units in the army, police forces, or civilian occupation authorities.

Some individuals used claims of actual or potential damage to their emotional, psychological or physical health as a result of their execution orders as an evasion tactic. Even in the SS, it was possible to have these reasons accepted. Other individuals refused, citing grounds of conscience, religion, or moral scruples. One individual refused to kill women and children because of his own wife and children. Another three refused to shoot defenseless people.

Knowledge of the Geneva Convention and of German military and SS law, as well as police regulations, aided only six refusers. Included here are several instances where the individuals knew about Dalüge's order prohibiting the Ordnungspolizei from participating in the exteminations (see case III, Müller-Bönigk, above) or about SS regulations allowing men to be relieved from execution squads if they could demonstrate mental or psychological damage. Some feigned madness or deliberate ineptitude. At least two men used prior consideration and discussions with each other, as well as their legal knowledge, to refuse their involvement (See case VI, Entrich and Riebstein, above.)

Knowledge of military and SS law, of military and political chains of command, of ability to perpetrate "benevolent sabotage" of the system enabled far more officers than enlisted men to press their refusal successfully. Officers made up approximately one-half of all such cases of refusal to obey orders and successful circumvention of orders in Jäger's study.<sup>18</sup> The ratio is fifty-seven officers out of the eighty-five cases in this author's study or 67.1 percent of the total. Enlisted men comprised twenty-eight cases or 32.9 percent.

One of the most innovative legally-based tactics included the demand to be shown legal evidence of trials and sentences against those marked for

execution and to have judges and representatives of the prosecution present, before they would participate, as in Case IV above involving the Schutzpolizei Major stationed in Sumy.

More than one in six asked for and continually re-applied for a transfer from Einsatzgruppen, from duties as concentration camp guards or as doctors. Among these, one resigned from the Gestapo. A number of these men requested assignment to combat units to avoid the charge of cowardice or softness towards the regime's enemies. Among this group are those who successfully prevented their transfer to units where they knew such murders would be likely and their participation expected.

Another type of successful tactic for not participating in the executions was eluding involvement. One army officer told Jewish captives to escape when an SD officer was absent. The guards assumed it was all right and allowed the escape to happen since the two officers had conferred earlier. Others hid behind wagons or trucks which had brought Jews and others to places of execution in order not to be detailed to the firing squads. Some threw away or "lost" their weapons, or continually shot wild, deliberately missing an old man in a ditch for instance, or overlooked women and children hiding from the search details.

There were men who used the method of refusing to be employed by other authorities to do their dirty work. Front-line soldiers in the army or Waffen SS refused to be "butchers" or "hangmen" for the SD or Einsatzkommandos. Police and other civil servants pointed out that this was not their unit's job; therefore, they had no obligation to participate in the killings.

A few individuals used economic arguments (the loss of Jewish laborers would create economic damage if they were killed) or threats of force to prevent the individual's participation. One case involved two men raising their loaded rifles in self defence against their drunken officer who had drawn his pistol to shoot them when they refused his order to shoot twenty women and children encountered on a road.

Other tactics included collective refusal by groups or whole units and exchanging prisoners or Jews for wounded German soldiers.

**TABLE 3**  
**Consequences for Those Refusing Orders to Carry Out Executions**

<b>Consequences</b>	<b>n</b>	<b>%</b>
No negative consequences at all*	49	57.6
Sent to concentration camps	1	1.2
Sent to combat units as punishment	3	3.5
House arrest/investigations, later dropped	5	5.9
Reprimands/threats to send to front, concentration camps, or put on report — not done	15	17.6
Units broken up after officers refused	2	2.4
Transfer to another unit or back to Germany*	14	16.5

Demotion or lack of further promotion	7	8.2
Drive officers to executions, dig pits, guard detail sealing off area	4	4.7
Resigned or removed from position	3	3.5

\*Several of these individuals were subsequently promoted.

### Consequences

What consequences were there for those who refused? The author's study of these eighty-five cases finds there is no proof that any one lost his life for refusal to kill civilians and prisoners. Forty-nine (57.6 percent) reported no negative consequences at all. Several were even promoted after their refusal.

The most serious consequence was that of Hornig (see Case VII above) who was arrested for refusal to carry out orders to kill Soviet POWs. The most serious charge against him was that of undermining the fighting ability of his troops by teaching them about military and police codes of criminal law, rather than refusal to obey orders. In two trials, he received no final sentence and was sent to Buchenwald as an inmate, but retained his rank and officer's pay. He was under investigative arrest.

Three others were sent to the front line, where one was killed in action. This was surely not an extraordinary consequence for many of Germany's men during the war.

All cases of men under house arrest or investigation for possible court-martials led to these being dropped. Over one-sixth of all cases involved threats to the refusers to put them on report, send them to the front, or to a concentration camp. Most of these threats were not carried out. Two officers had their units dissolved after their refusal.

Transfer, often back to Germany — hardly a punishment — or to another unit occurred in one-sixth of all cases. Such transfers sometimes resulted in demotions with lower salary, as in the case of a nurse who refused to participate in the euthanasia program. Transfers could also open up the possibility of subsequent promotion.

Several cases of demotion or lack of promotion after refusals were noted. Only four cases resulted in the refusers having a mild form of participation forced on them, such as having to drive officers to the execution site, dig the execution pit, or to help with the guard detail sealing off the execution area from outside eyes. Three refusers ended their careers by resigning or were removed from their positions.

These results are very consistent with those of the Jäger study made twenty years ago and published only in German. Herbert Jäger studied 103 cases, many of these documented by testimonies of witnesses in post-war trials or pre-trial investigations, in which Nazi functionaries refused or evaded carrying out execution orders.<sup>19</sup> This author's and Jäger's studies include a number of the same cases, but at least twenty-four in this study are not included in Jäger's analysis, including fifteen investigated since 1967.

In fourteen of Jäger's cases (13.6 percent), it was originally claimed by witnesses that the refusal resulted in harm to life and limb (i.e., sentence of death or threats that the person refusing would be shot, commitment into a concentration camp, or threat of transfer to a probationary or punitive military unit). In some of these cases the negative results claimed were disproven and in some (i.e., being sent to a concentration camp) they were found to be the result of some other reason than refusal to execute.

In the eighty-nine other cases, thirty-five (34 percent), resulted in less severe consequences such as transfer elsewhere, a verbal or formal written reprimand by a superior, transfer to a combat unit (hardly an unexpected consequence for most of Germany's men during the war), or demotion in rank and slower promotions thereafter.

The remaining fifty-four cases (52.4 percent), resulted in no negative consequences of the individual's or group's refusal to participate in shootings of civilians.<sup>20</sup>

### Conclusions

The most remarkable conclusion about this investigation is the failure to find even one conclusively documented instance of a life-threatening situation (shot, physically harmed, or sent to a concentration camp) occurring to those who refused to carry out orders to murder civilians or Russian war prisoners. In spite of general assumptions to the contrary, the majority of such cases resulted in no serious consequences whatever.

Another important conclusion is the relative scarcity of documented instances of refusal by individuals or groups to carry out civilian or POW executions. How few chose to put their reputations, careers, even perhaps their lives at risk to avoid committing a crime against humanity, is also rarely documented, perhaps because the Nazi regime assured them these actions were necessary to preserve their people.

Those instances where the uncertainty of the official reaction to the individual's refusal to obey these extermination orders was evident make one point very clear. There was not a uniform system of "terror-justice" operating automatically against those whose civil and moral courage forced them to declare "ohne mich!" (without me!). In fact, the opposite is true. In every case of documented refusal to obey orders to exterminate people, the coercive powers of the Nazi system proved to be impotent or ineffective.

<sup>1</sup>Adalbert Rückerl, the director of the Zentrale Stelle from 1966-1982 (?) has written an authoritative history of this theme in his *Die Strafverfolgung Nationalsozialistischer Verbrechen 1945 bis 1978*, also translated into English the same year by Derek Rutter as *The Investigation of Nazi Crimes 1945-1978* (both editions Heidelberg: C.F. Mueller Verlag, 1979).

<sup>2</sup>Herbert Jäger, *Verbrechen unter totalitärer Herrschaft; Studien zur nationalsozialistischen Gewaltdelinquenz*. First published by Walter Verlag, 1967. Author is quoting from the paperback edition identical with the original, except for a new introduction and two new sections at the end (Frankfurt am Main: Suhrkamp Verlag, 1982). See especially pp. 81-160.

<sup>3</sup>See for instance Robert L. Köhl, *The Black Corps; The Structure and Power Struggles of the Nazi SS*, (Madison, Wisconsin: University of Wisconsin Press, 1983); Heinz Höhne, *The Order of the*

*Death's Head; The Story of Hitler's SS* (New York: Coward-McCann, Inc., 1970); Alfred Streim, *Die Behandlung Sowjetischer Kriegsgefangener im "Fall Barbarossa"* (Heidelberg: C.F. Müller Verlag, 1981); (Heidelberg: C. F. Müller Verlag, 1981); Christian Streit, *Keine Kameraden; Die Wehrmacht und die Sowjetischen Kriegsgefangenen, 1941-1945* (Stuttgart: Deutsche Verlags-Anstalt, 1978); Militärgeschichtliches Forschungsamt, ed. *Der Angriff auf die Sowjetunion*, vol. 4 of *Das Deutsche Reich und der Zweite Weltkrieg* (Stuttgart: 1983); Wilhelm Deist, ed., *The German Military in the Age of Total War* (Berg: 1985), see especially Manfred Messerschmidt, "German Military Law in the Second World War," and Jürgen Förster, "New Wine in Old Skins? The Wehrmacht and the War of Weltanschauungen"; Hermann Langbein, *Der Auschwitzprozess; Eine Dokumentation*, 2 vol., (Frankfurt am Main: Europäische Verlags-Anstalt, 1965); Adalbert Rückerl, ed., *Nationalsozialistische Vernichtungslager im Spiegel Deutscher Strafprozesse; Belzec, Sobibor, Treblinka, Chelmo* (Munich: Deutscher Taschenbuch Verlag, 1977); Adalbert Rückerl, ed., *NS-Prozesse nach 25 Jahren Strafverfolgung: Möglichkeiten-Grenzen-Ergebnisse* (Karlsruhe: C.F. Müller Verlag, 1971); Adalbert Rückerl, *The Investigation of Nazi Crimes 1945-1978; A Documentation* (Heidelberg: C.F. Müller Verlag, 1979), among many others.

<sup>4</sup>"Vorgänge des Persönlichen Stabes des Reichsführers SS," American documentary material Film 2, frames 935-968 from U.S. National Archives to Zentrale Stelle, Ludwigsburg (hereafter listed as ZStL), for correspondence from Himmler and his personal staff about this affair and the ensuing Gestapo investigation into Battel's past. See also Militärgeschichtliches Forschungsamt, *Aufstand des Gewissens: Militärischer Widerstand gegen Hitler und das NS-Regime, 1933-1945. (Katalog Zur Wanderausstellung des Militärgeschichtlichen Forschungsamtes)*, (Herford and Bonn: E.S. Mittler & Sohn GmbH, 1984), p. 110; Jäger, *Verbrechen unter totalitärer Herrschaft*, p. 103.

<sup>5</sup>USA 9, Dokumente Film 2, fr. 940, ZStL.

<sup>6</sup>USA 9, Dokumente Film 2, fr. 936-968, letter from Himmler to Bormann, ZStL. See also Hermann Langbein, *Im Namen des Deutschen Volkes* (Vienna, Cologne, Stuttgart, Zurich: Europa Verlag AG, 1963), p. 56.

<sup>7</sup>See also pp. 343-374 in Verschiedenes 297, 23 Amtliches Anzeiger für das Gen. Gouvernement Krakau, 1941-1943, ZStL.

<sup>8</sup>Testimony of Bernhard Griese given on October 1, 1959 in the judicial investigation against von dem Bach-Zelewski, StA (Prosecuting Attorney) Nürnberg-Fürth 5a Js 642/58, ZStL. Griese's superior, Major-General Karl Franz, referred to this and possibly other cases of refusing to allow Police Battalions under his command to participate in executions in his testimony of September 24, 1956 in the pre-trial investigation against Fischer-Schweder u.a., StA Ulm Ks 2/57, the "Ulm Einsatzgruppen Trial," ZStL.

<sup>9</sup>Langbein, *Im Namen des Deutschen Volkes*, p. 57. He cites "Ulm Einsatzgruppen Trial" records, StA Ulm, Ks 2/57.

<sup>10</sup>Judicial testimony of Rudolf Müller-Bönigk on September 11, 1964 in the pre-trial investigation against Kuhr and others for murder. StA Frankfurt am Main, 4 Js 901/62, ZStL.

<sup>11</sup>LG (Landesgericht) Stuttgart, Entscheidungskammer, EGR 3960 ES/A 8144 (O) DP, Judicial testimony of Anton Perger on December 12, 1955. Also SchG (Schwurgericht) Koblenz, 9 Ks 1/61 (Remmers u.a.), ZStL.

<sup>12</sup>Testimony of Friedrich Dern on March 9, 1960 in the pre-trial investigation of Kunkel u.a. for murder. 2 AR-Z 87/60 ZSt, ZStL.

<sup>13</sup>Personal testimony of Walter Enrich on December 21, 1960 in the investigation of Blunk and others for murder. StA Hannover, 2 Js 460/60, ZStL.

<sup>14</sup>Died on September 1, 1949 in Buchenwald Internment Camp, according to Dr. Alfred Streim, *Die Behandlung Sowjetischer Kriegsgefangener im "Fall Barbarossa"; Eine Dokumentation unter Berücksichtigung der Unterlagen und der Materialien der zentralen Stelle der Landesjustizverwaltungen zur Aufklärung von NS Verbrechen* (Heidelberg: C.F. Müller Verlag, 1981), p. 303, fn. 98.

<sup>15</sup>ZStL, 302 AR-Z 44/65, vol. II, p. 333f.

<sup>16</sup>The first trial of the SS and Police Court II in Kassel was held on November 8, 1942. See 302 AR-Z 44/65 S. 338, ZStL.

<sup>17</sup>Dr. Hornig's trial testimony on October 18, 1960 in the Schmidt-Hammer (earlier Fischer-Schweder) trial, StA Ulm, Ks 2/57 and other trials, such as GStA Darmstadt, LG Darmstadt. Js 4/65, ZStL; Streim, *Die Behandlung Sowjetischer Kriegsgefangener im "Fall Barbarossa"*, pp. 302-304. Dr. Hornig's letter to author along with other materials of March 3, 1988.

<sup>18</sup>Jäger, *Verbrechen unter totalitärer Herrschaft*, pp. 121-122.

<sup>19</sup>*Ibid.*, see footnote 2 above.

<sup>20</sup>*Ibid.*, pp. 102-121.