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# The Art of Not Seeing: The Immigration and Naturalization Service's Failed Search for Nazi Collaborators in the United States, 1945-1979

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The Art of Not Seeing: The Immigration and Naturalization Service's Failed Search for Nazi Collaborators in the United States, 1945-1979

A Thesis Presented

by

JEFFREY D. DAVIS

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The Art of Not Seeing: The Immigration and Naturalization Service's Failed Search for Nazi Collaborators in the United States, 1945-1979

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## **ABSTRACT**

THE ART OF NOT SEEING: THE IMMIGRATION AND NATURALIZATION  
SERVICE'S FAILED SEARCH FOR NAZI COLLABORATORS IN THE UNITED STATES,  
1945-1979

MAY 2020

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From 1945 to 1979, the Immigration and Naturalization Service was responsible for identifying and prosecuting Nazi collaborators and potential war criminals in the United States. It failed in this task for a number of reasons. The first of these was that the agency was severely disorganized and mismanaged. Reliance on interagency cooperation, lack of manpower and resources, and lack of institutional support for "Nazi hunters" posed further problems. Morale crises among employees and the legal difficulties of actually prosecuting Nazi collaborators also hampered the agency's effectiveness. Most importantly, the agency was overwhelmingly focused on policing the southern border and preventing the entry of unauthorized Mexican migrants. This policy focus prevented resources from being devoted to other initiatives, including investigating the presence of Nazi collaborators in the United States.

In this paper I analyze the existing historiography on this topic and discuss its shortcomings. These include a focus on the small number of cases prosecuted by the INS, from which historians have tended to make inapplicable generalizations, and a focus on the Cold War and anticommunism as explanations for the INS's failure. I have also surveyed historical works on denazification in Germany, which I argue provide a better template for historians working on the collaborator presence in the United States.

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## CHAPTER 1

### INTRODUCTION

In May 1979, after years of congressional pressure and repeated lackluster performances by the Immigration and Naturalization Service (INS), the Department of Justice created the Office of Special Investigations (OSI) to “identify, and to seek removal of...those who assisted the Nazis and their allies in the persecution of civilians” and who had since immigrated to the United States.<sup>1</sup> That congressional pressure, applied largely by Representatives Elizabeth Holtzman (D-NY) and Joshua Eilberg (D-PA) in their positions on the House Subcommittee for Immigration and the Judiciary Subcommittee on Immigration, Citizenship, and International Law, respectively, was the result of a widely perceived failure on the part of the INS to adequately investigate and prosecute Nazis and their allies in the United States. Those investigations and prosecutions would now reside under one roof in the Robert F. Kennedy building in downtown Washington, D.C.—rather than multiple INS offices throughout the country—with a centralized staff to oversee them.

The INS had been responsible for investigating allegations of immigration fraud relating to criminal activity during the Second World War since well before the war’s end. Why had the INS failed to investigate these cases during the time in which it was responsible for them? Why were so many people potentially guilty of war crimes able to live quiet, unassuming lives in the United States until (and in many cases, even after) the founding of the OSI? One principal reason for these failures is that, especially in the period immediately following the war,

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<sup>1</sup> Judy Feigin, *The Office of Special Investigations: Striving for Accountability in the Aftermath of the Holocaust*, (Washington, D.C.: Office of Special Investigations, 2006), iv.

investigations of potential war crimes faltered for similar reasons that denazification in Germany itself was so chaotic. That is, the continued need for stability and bureaucratic inertia limited the actions the INS took. Morale crises among Service employees also played a part, compounded by a lack of resources. Additionally, sheer numbers made a truly root-and-branch policy impossible; more than 500,000 Europeans immigrated to the United States under the Displaced Persons Act and other refugee relief mechanisms, in addition to general immigration from countries allied with or occupied by the Nazis. Director of the OSI Allan A. Ryan, Jr. estimated that 2.5 percent of these immigrants been responsible for war crimes during World War II; at such a scale, substantively investigating them all would have been impossible. In this regard, investigation of alleged Nazis in the United States closely mirrored denazification in Germany.<sup>2</sup> But perhaps the most important reason was that the INS was more focused on regulating, policing, and deporting undocumented Mexican and Latin American migrants than they were on prosecuting genocidaires. In this regard, the institutional history of the INS and the Border Patrol combined with the racist undercurrent of American immigration policy to allow potential war criminals to escape prosecution and punishment.

Existing historiography on Nazi war criminals in the United States has thus far neglected these explanations for the INS's failures. Instead, historians working on this topic have highlighted the onset of the Cold War and the rise of the national security state as the prime reasons for the INS's laxity. Historians of these investigations have uncritically accepted frameworks emanating from histories of Operation Paperclip, which focus on a small number of high-level individuals guilty of or implicated in war crimes. Additionally, these historians have

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<sup>2</sup> Feigin, *Office of Special Investigations*, ix. For denazification in Germany, which will be discussed below, see Perry Biddiscombe, *The Denazification of Germany: A History 1945-1950*, (Stroud: Tempus, 2007).

overwhelmingly pointed to the Cold War and anticommunism as the main reasons for the impunity with which war criminals went about their lives in the United States. A better approach to adopt would be that of recent histories on denazification, many of which argue that the Cold War, though a factor in the failure of denazification policies, took a backseat to more mundane desires and fatigues among both occupied Germans and their American, French, British, and Soviet occupiers. These histories provide instructive models for scholars of Nazi war criminals in the United States in a number of ways which will be explored below.



## CHAPTER 2

### HISTORIOGRAPHY

#### A. The Paperclip Approach

Historians of Nazi war criminals in the United States have generally advanced a simple, monocausal explanation for the government's laxity: the Cold War and the attendant needs of the new national security state for staunch anti-Communist allies and immigrants.<sup>3</sup> This approach is counterproductive in providing an accurate narrative of the time period. To provide a fuller accounting of the failures of the United States government to prosecute these alleged criminals, historians working on this question would do well to borrow from recent histories on the parallel phenomenon of denazification in Germany. These have productively moved away from the contention that the Cold War and German rearmament were the sole motivating factors for leniency and have instead engaged in a much more "in the weeds" investigation of political and popular backlash to the programs in various occupation zones.

Many historical works on the issue of Nazi war criminals in the United States argue that these individuals were not investigated or received lenient treatment because of the United States' anti-Communist priorities during the Cold War. This, however, is only part of the story, and other issues took just as much focus away from the problem as did fighting the "Red Menace." Why is it, then, that historians have continually chosen to portray Cold War

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<sup>3</sup> Reflecting both the secondary literature on this topic and the historical use of the term, I use the term "Nazi war criminals" broadly, to include Germans who perpetrated war crimes as members of the Wehrmacht or other German armed forces and paramilitaries (e.g. the Schutzstaffel), ethnic Germans in countries invaded by Nazi Germany, members of the Nazi Party in decision-making or executive capacities, members of non-German fascist parties from unoccupied countries aligned with the Axis powers, and indigenous collaborators (e.g. Ukrainians, citizens of Baltic countries) who worked alongside the Nazis to persecute minorities in their own countries. Where necessary I will distinguish between these groups.

considerations as paramount in the story of Nazi war criminals escaping scot-free? This emphasis results from the outsized place that Operation Paperclip occupies in the historiography of the immediate postwar period.

Operation Paperclip was the name of the Joint Chiefs of Staff's program to bring highly skilled Germans from the American, British, and French zones of occupation to the United States. By far the most famous category of dubiously moral German immigrants, the beneficiaries of Operation Paperclip were high-level scientists working on advanced weapons research, especially rocketry. Perhaps the paradigmatic example is Werner von Braun, don of Nazi rocketry science who became integral to the American space program and was never punished for the use of slave labor in the rocket construction facilities of the Mittlebau-Dora concentration camp, of which he was directly aware.<sup>5</sup> Another example is Hubertus Strughold, the "Father of Space Medicine," whose groundbreaking research for NASA was built upon the experiments he conducted on concentration camp prisoners. Both men were directly recruited by the national security state and used in the Cold War to compete with the Soviet Union in the fields of rocketry and space exploration. These two men and their compatriots were an extremely small portion of the overall flow of immigrants and refugees from postwar Europe to the United States and occupied an extremely privileged position vis-à-vis the emerging national security state. Because the vast majority of German and Eastern European immigrants guilty of war crimes were so dissimilar from Paperclip beneficiaries, analyses that explain the Paperclippers' escape from justice cannot be applied to other Nazi war criminals.

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<sup>5</sup> Annie Jacobsen, *Operation Paperclip: The Secret Intelligence Program that Brought Nazi Scientists to America*, (New York: Back Bay Books, 2014), 31.

Nevertheless, Operation Paperclip has left an indelible mark on the historiography of German and Eastern European war criminals in the United States and has led scholars to point to the Cold War as a nearly monocausal explanation for their warm reception. The proponents and beneficiaries of Operation Paperclip justified the program by referencing the “cascade of crises in Europe and Asia” that constituted the Cold War.<sup>6</sup> The rapid development of military science in the Soviet Union served as “the impetus and the justification for Project Paperclip and its successor programs during the Cold War.”<sup>7</sup> The integration of German scientists within the American national security state, and the major role of national security agencies in recruiting and relocating these scientists, prevented thorough investigations of their pasts in Germany. Indeed, these agencies, including the Central Intelligence Agency and the Federal Bureau of Investigation, often directly covered up the scientists’ wartime records.<sup>8</sup>

Historians, then, have correctly given the Cold War primacy of place in explaining how the beneficiaries of Operation Paperclip avoided investigation and prosecution for war crimes. Despite significant differences between the Paperclippers and lower-level Nazi war criminals, however, historians have also extended this explanation to the latter group. Historian Christoph Schlissel, for instance, argued that “Cold War discourse clearly had shifted attention away from Nazi to communist totalitarianism,” and that Nazi war criminals were able to enter the United States and avoid investigation and deportation solely because “Nazi Germany had disappeared as a threat and...[Germany] was needed as an ally against Stalin’s Soviet Union.”<sup>9</sup> In this view,

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<sup>6</sup> Brian E. Crim, *Our Germans: Project Paperclip and the National Security State*, (Baltimore: Johns Hopkins University Press, 2018), 182-183.

<sup>7</sup> Crim, *Our Germans*, 119.

<sup>8</sup> Crim, *Our Germans*, 120.

<sup>9</sup> Christoph Schiessl, *Alleged Nazi Collaborators in the United States after World War II*, (Lanham: Lexington Books, 2016), 74.

agents responsible for resettling displaced persons in the United States “ignored, purposefully or not, an applicant’s questionable past” because being “anti-communist [w]as an asset.”<sup>10</sup> What this explanation ignores is that, prior to the late 1970s, immigration officials generally did not even ask most immigrants questions about their “questionable past.” Most collaborators managed to get into the United States without having to hide their past; as historian Eric Lichtblau put it, they “came because no one stopped them.”<sup>11</sup>

In some sense, historians can be forgiven for inaccurately applying a Paperclip-style view given that it is present in many primary source materials, including relevant congressional hearings and public statements of immigration officials. In hearings on the failure to prosecute low-level Nazi war criminals, Representative Joshua Eilberg pointedly asked Victor Lowe, Director of the General Government Division of the U.S. General Accounting Office, whether the INS and other agencies had failed to follow up on leads because “the United States had defeated the Nazis and therefore efforts were chiefly directed against Communists.” Further, Representative Eilberg outright stated that he believed “Nazi war criminals were permitted to enter the United States [because] the [INS]...was completely preoccupied with Communism.”<sup>12</sup> The GAO also believed that investigations may have been set aside because of the “cold war [*sic*] situation including whether (1) the allegation [of wartime collaboration] may have been Communist propaganda and (2) potential information and witnesses were needed from countries

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<sup>10</sup> Schiessl, *Alleged Nazi Collaborators*, 80.

<sup>11</sup> Eric Lichtblau, *The Nazis Next Door: How America Became a Safe Haven for Hitler’s Men*, (Boston: Houghton Mifflin Harcourt, 2014), 11.

<sup>12</sup> U.S. Congress, House of Representatives, Committee on the Judiciary, *First Session on Alleged Nazi War Criminals: Hearing Before the Subcommittee On Immigration, Citizenship, And International Law*, 95<sup>th</sup> Cong. 1st sess., 1977, 11-12.

under Soviet jurisdiction,” of course also implying that witnesses had been coached by Communists insistent on casting the U.S. as the country of safe haven for collaborators.<sup>13</sup>

Contemporary journalists reporting on the issue of Nazi war criminals also pointed to the Cold War as the reason for the genocidaires’ escape from justice. Numerous newspapers articles are available in which journalists confidently state that “[i]t is known that a number of alleged Nazis found work as consultants for the CIA and the State Department, and there has been speculation that the INS was specifically asked to protect these men.” In many, the authors included assertions along the lines of the idea that “raging anti-Communism” of the postwar United States “quickly rendered the Third Reich insignificant to U.S. policymakers.”<sup>14</sup> When charges did come to light, some articles claimed that these were “Communist inspired.”<sup>15</sup> While historians have been quick to replicate these statements in their scholarly works, the GAO, and ultimately Congress, came to different conclusions regarding the INS’s immense failures.

Beyond adopting the analyses, arguments, and biases present in primary sources, historians have reproduced the “Paperclip approach” in their work on lower-level Nazi war criminals in part because it offers a seductively simple story. In this account, the FBI, J. Edgar Hoover personally, and intelligence agencies like the newborn CIA, assume their familiar positions as the villains of postwar domestic politics. Again, this conspiratorial thinking appears in the primary source record; Representative Eilberg, for instance, was unsatisfied with an

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<sup>13</sup> U.S. General Accounting Office, *Widespread Conspiracy to Obstruct Probes of Alleged Nazi War Criminals Not Supported by Available Evidence—Controversy May Continue*, GGD-78-73, Washington, D.C., GAO, 1978, 15.

<sup>14</sup> Matthew Rinaldi, “Guilty but Free,” *The Jerusalem Post*, April 6, 1979. <http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/921860439?accountid=14572> (accessed February 24, 2020).

<sup>15</sup> Stephen Klaidman, “Haunted by the Past: Latvian Accused of War Crimes,” *The Washington Post*, October 16, 1976. <http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/146506895?accountid=14572> (accessed February 25, 2020).

investigation of the INS because it failed to “give us answers...it doesn’t name names. It just raises more questions.”<sup>16</sup> But this type of narrative seeking was not limited to the historical actors themselves. Charles R. Allen, Jr.’s breathless *Nazi War Criminals in America: Facts...Action; The Basic Handbook*, published in book form in 1985, was the prototypical example of this bias in the secondary literature (though Allen was a journalist, not a historian). Allen trumpets the fact that the United States government knew about Nazi war criminals’ pasts “from the beginning,” pointing directly to “the State Department, the intelligence branches of the Army, Navy, and Air Force, as well as the CIA, FBI, Radio Free Europe, Radio Liberty and others.”<sup>17</sup> Allen’s list of potential Nazi war criminals undergoing court procedures or investigations (admittedly an example of excellent reporting, collation, and analysis) was replete with notations that this or that Ukrainian or Estonian was “CIA agent since before 1950s” or had been “a double-agent for OSS” while part of the Schutzstaffel, the German police organization responsible for administering the Holocaust.<sup>18</sup>

In other, more professional histories, a similar focus is present. Christoph Schliessl, for instance, discussed how in many cases the “FBI either dismissed accusation of involvement in war crimes as communist propaganda or willfully ignored the suspects’ Nazi past.”<sup>19</sup> The military is also the frequent target of excoriation. Brian Crim focused on this issue, arguing that the interbranch Joint Intelligence Objectives Agency, responsible for Operation Paperclip, “arranged for expedited investigations that either ignored derogatory data or included amended

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<sup>16</sup> Howard Blum, “New Actions on Alleged Nazi War Criminals Expected,” *The New York Times*, June 17, 1978. <http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/123665778?accountid=14572> (accessed February 25, 2020).

<sup>17</sup> Charles R. Allen, Jr., *Nazi War Criminals in America: Facts...Action; The Basic Handbook*, (Highgate House: New York City, 1985), 3.

<sup>18</sup> Allen, *Nazi War Criminals*, 14; 19.

<sup>19</sup> Schliessl, *Alleged Nazi Collaborators*, 933.

security dossiers.”<sup>20</sup> To be sure, the FBI, the military, and the various Cold War “alphabet soup” agencies were responsible for more than their fair share of obfuscation; neither Allen nor professional historians fabricated stories. The obstructionism of these federal government bodies, however, was never the sole reason these Nazi war criminals went uninvestigated and unpunished. Indeed, federal agencies were involved in only a limited number of these cases, and the INS itself played only a minor role in the granting of visas to these individuals.

This kind of historiographical approach is only feasible because most historians have focused either on the major figures of Operation Paperclip or the exceedingly small number of cases actually investigated by the U.S. government. In one instructive example of this “Paperclip history” style, Richard Breitman and Norman Goda in their *Hitler’s Shadow: Nazi War Criminals, U.S. Intelligence, and the Cold War* devoted an entire chapter to the Nazi bosses present at Hitler’s underground bunker in Berlin at the end of the war in Europe.<sup>21</sup> Later chapters focused specifically on SS generals and *Reichssicherheitshauptamt* (Reich Security Main Office; the governmental department responsible for political surveillance) functionaries. Breitman and Goda related the stories of Gestapo chiefs, “officers from the army’s elite Grossdeutschland Division...and senior Nazi party members.”<sup>22</sup> Allen A. Ryan, Jr., head of the Office of Special Investigations from 1980 to 1983, wrote *Quiet Neighbors: Prosecuting Nazi War Criminals in America* in 1984. Even he, with years of experience investigating Nazi war criminals and his famous estimate that 10,000 or more were probably present in the United

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<sup>20</sup> Crim, *Our Germans*, 67.

<sup>21</sup> Richard Breitman and Norman J. W. Goda, *Hitler’s Shadow: Nazi War Criminals, U.S. Intelligence, and the Cold War*, (Washington, D.C.: National Archives and Records Administration, 2010), [https://search.ebscohost.com/login.aspx?direct=true&db=cat06087a&AN=umass.01124\\_1287&site=eds-live&scope=site](https://search.ebscohost.com/login.aspx?direct=true&db=cat06087a&AN=umass.01124_1287&site=eds-live&scope=site), 5-15.

<sup>22</sup> Breitman and Goda, *Hitler’s Shadow*, 53.

States, filled *Quiet Neighbors* with chapter titles like “John Demjanjuk: Ivan the Terrible;” “Andrija Arutkovic: The Dean of America’s Nazis;” and “Viorel Trifa and Otto von Bolschwing: Pursuing the Guilty.” While helpfully moving away from only the landmark cases which had been prosecuted, Breitman, Goda, et al.’s 2005 *U.S. Intelligence and the Nazis* nonetheless covered only the cases of major figures in either German or Eastern European fascist movements. It is in these cases, those of the bigwigs, scientists, intelligence operatives, and other major figures, that the Cold War narrative is most compelling (and most accurate). When, however, historians have broadened the subject matter of their investigations but applied the same reasoning, they produced less compelling works.

One work that bucks this trend is Russ Bellant’s *Old Nazis, the New Right, and the Republican Party* (1991). *Old Nazis* provided a compelling example for historians of this period in its detailed investigation of the political paths of collaborators upon arrival in the United States. While Bellant did hew to the traditional Cold War analysis to some extent (e.g. highlighting how some collaborators had long and productive careers with Radio Free Europe), his account overall departed from this perspective.<sup>23</sup> Bellant concluded that “Americans are, in general, not aware of the...importance of the Eastern Front in the history of World War II,” and that the “resulting ignorance allows us to tolerate an extensive network of [Nazi] collaborators...[in] the United States.”<sup>24</sup> Not only was this more prosaic, less dramatic conclusion admirable, but the scope of his investigation itself was worth replicating. Bellant distinguished himself from other historians working on this topic by not solely investigating cases which drew attention from the INS or other federal agencies. *Old Nazis* instead included

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<sup>23</sup> Russ Bellant, *Old Nazis, the New Right, and the Republican Party: Domestic fascist networks and their effect on U.S. cold war [sic] politics*, (Boston: South End Press, 1991), 25.

<sup>24</sup> Bellant, *Old Nazis*, 89.



discussions of leaders of small-scale ethnic organizations, like the Slovak-American Republican Federation, whose leader Method Balco “still organize[d] in New York City an annual commemoration of the Tiso [fascist collaboration government under Nazi] rule.”<sup>25</sup>

In uncovering these low-level collaborators whose actions had generally not yet come to light, Bellant’s work came closer to the truth in representing the full scale of collaborationist presence in the postwar United States. Further, his work represented an inversion of the normal Cold War script; instead of focusing on the Cold War’s effects on the importation of collaborators and the government turning a blind eye to them, Bellant documented how these under-the-radar collaborators affected the prosecution of the Cold War. For instance, in his section on the American Security Council, he noted how “Hitler collaborators...and anti-Semitic activists” formed key nodes in the network linking the United States government to the World Anti-Communist League, and in the following pages demonstrated how Eastern European nationalists of varying stripes exerted influence on anti-Soviet politics in the 1970s as 80s.<sup>26</sup> Other scholars working on the collaborationist presence in the United States would do well to adopt Bellant’s methodological approach.

To conclude briefly, the framings under which historians have presented the issue of Nazi war criminals in the United States have largely been unproductive. Not only journalists and citizen scholars but professional historians, too, have adopted the rhetoric of the Cold War in explaining the presence of Nazi criminals and Eastern European collaborators. They have relied for inspiration on histories of Operation Paperclip and an attendant focus on small numbers of criminals compared to the massive inflow of German and Eastern European refugees in the post-

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<sup>25</sup> Bellant, *Old Nazis*, 15.

<sup>26</sup> Bellant, *Old Nazis*, 65-77.

war period. Because of this focus, they have produced accounts which, however well-sourced, reach conclusions only applicable to this small number of selected cases. Historical works on denazification in Germany provide a more compelling example for historians of Nazi war criminals in the United States.

### **B. Denazification Historiography**

Instead of adopting the approaches common in historical works specifically on Nazi war criminals in the United States, these (and future) historians should look to recent works on denazification *in situ*. The key feature of many of these works, despite differing conclusions and ideological convictions of the authors, is that they all have included in-depth discussions of the politics of the implementation of denazification on the local and national level in Germany. Recent works have helpfully departed from the idea that America's desire to rearm West Germany and transform it into a Cold War ally played the most important role in the failure of denazification. Instead, they have documented how a general spirit of popular resistance to these initiatives hamstrung American, British, and French, as well as German, executors of denazification policies and programs.<sup>27</sup> Additionally, many of these works point out that incompetence and laziness, rather than malice and conspiracy, represented larger barriers to effective denazification. Bureaucratic roadblocks and floods of paperwork determined outcomes more directly than did malicious national security operatives. Denazification histories demonstrated that even high priority programs were hampered by shoddy implementation and

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<sup>27</sup> I note here that each zone of occupation (British, American, French, and Soviet) had (in some cases wildly) different policies and plans for implementing denazification. In this paper I will focus primarily on historical works discussing the American zone, with some analysis of works on the British zone as well. Works on denazification in the Federal Republic of Germany (also known as West Germany), created out of the three non-Soviet zones, will also be a subject of analysis in this paper.

the volume of work to be completed. Additionally, these works have focused on low-level perpetrators, which dramatically altered the narrative and provided a more expansive account than did works which looked only at the defendants of the Nuremberg trials. Finally, influential works on denazification have shown how the program's failure was tied more to a simple desire to move on, away from the past, than to any national security concerns. These and other characteristics of histories on denazification are useful signposts for historians working on the issue of Nazi war criminals in the United States.

The first defining feature of denazification historiography, and most instructive for scholars investigating Nazi war criminals in the United States, is an in-depth look at the politics of specific efforts to root out Nazis from German society. These extended from denazification policies in the earliest phases of the occupation to the final winding down of the programs in Konrad Adenauer's Federal Republic of Germany.<sup>28</sup> For instance, Perry Biddiscombe's *The Denazification of Germany* (2007), which provided an in-depth survey of denazification in the various zones of occupation, examined how the philosophical underpinnings of the policies in each zone—American idealism, British pragmatism, Soviet dialectical materialism—determined the outlines of different denazification plans. Biddiscombe then documented how conditions on the ground and the political struggles of implementation led to the abandonment of these ideals and outlines, culminating in “muddled and self-contradictory” implementation from the Saarland to Stettin.<sup>29</sup> Norbert Frei's definitional *Adenauer's Germany and the Nazi Past* (2002) investigated of the politics of denazification after the founding of the Federal Republic, including

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<sup>28</sup> Konrad Adenauer was the first Chancellor of the Federal Republic of Germany, in which capacity he served from 1949 to 1963.

<sup>29</sup> Biddiscombe, *Denazification*, 119.

an “past-political” projects in West Germany and the “process of past-political border demarcation and the establishment of corresponding legal norms.”<sup>30</sup>

Where “Paperclip histories” viewed the politics of the Operation narrowly, i.e. as fights largely between unelected bureaucrats in the constellation of national security agencies, Biddiscombe, Frei, and others working on denazification in Germany included extensive analysis of the roles played by individual parliamentarians and whole political parties, as well as the connections between these groups with public interest lobbies and key nodes of the bureaucracy. Frei’s work also included discussions of the ways in which German culture and political structures writ large impacted the denazification process. For instance, Frei and others investigated how political actors used the deepening Cold War to achieve their political goals, playing American desires for a contribution to NATO defenses against a popular desire for amnesty, especially on the part of massively influential soldiers’ organizations like the League of German Soldiers.<sup>31</sup> This stands in contrast to Paperclip histories, where the “Cold War” is frequently presented as a historical actor in its own right rather than a phenomenon which historical actors used to achieve their own political goals. Scholars of Nazi war criminals in the United States would do well to learn from these examples, particularly of the connections between policymakers and the bureaucracy, which had a demonstrable effect on prosecution in America.

Denazification historiography has also helpfully documented the ways that apathy, resentment, and incompetence, more than obstruction through skullduggery, harmed

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<sup>30</sup> Norbert Frei, *Adenauer’s Germany and the Nazi Past: The Politics of Amnesty and Integration*, translated by Joel Golb, (New York: Columbia University Press, 2002), xv.

<sup>31</sup> Frei, *Adenauer’s Germany*, 203ff.

denazification programs in the western zones of occupation and later in West Germany. The scale of the problem in Germany, with millions of Party members, demobilized soldiers, and collaborators of various stripes (discussed below), led many Germans to the conclusion that a witch hunt was taking place; as a result, many lied about their Nazi affiliations to avoid what they saw as deeply unfair punishment for normal wartime or political behavior.<sup>32</sup> Rather than forcing through a thoroughgoing investigation of uncooperative subjects, German authorities largely abandoned the project. Despite an “appetite” for “anti-Nazi purges,” Germans evinced “little popular acceptance of ‘collective guilt,’” which led to non-cooperation and foot-dragging on the part of German authorities and civilians.<sup>33</sup> Universities, thoroughly penetrated by both Nazi party members and the ideas from which the party drew, presented a particular nightmare for occupation authorities, as university administrators to whom denazification had been devolved were reluctant to dismiss their colleagues, comrades, and friends.<sup>34</sup>

Many denazification councils were locally oriented, which further complicated the process. While states and major cities had their own denazification chambers, smaller, regional political units in Germany had their own as well. At this level as well the occupation authorities faced similar challenges, with the members of small rural communities often reluctant to pass (deservedly harsh) judgment on their neighbors for activities which the denazification judges themselves may have supported during the war.<sup>35</sup> Firms and businesses were required to self-police and report members of the Nazi party working at all positions higher than manual labor; it is not hard to see why this was unpopular, especially among the business owners who made up a

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<sup>32</sup> Biddiscombe, *Denazification*, 183.

<sup>33</sup> Biddiscombe, *Denazification*, 188.

<sup>34</sup> Biddiscombe, *Denazification*, 65-68.

<sup>35</sup> Biddiscombe, *Denazification*, 68-71;

significant base of support for the Nazi party. Incompetence also hampered the various denazification programs—the American military government repeatedly handed down “hastily conceived and badly drawn” dispatches and policies, which often contradicted previous policies.<sup>36</sup> Wildly shifting policy and enforcement priorities took precedence over moral justice—a fact which we will see repeated in American investigations of collaborators. Incompetence played a much more significant role in investigatory failures than did any kind of conspiracy, and historians of denazification have accordingly paid more attention to this factor than have their American counterparts.

In a similar vein, works on denazification in Germany have documented how the sheer volume of work to be completed, with tens of millions of members of the Nazi Party and fellow travelers to be judged and millions of *Fragebogen*<sup>37</sup> to be analyzed, militated against a successful denazification program. American occupation authorities, for instance, processed some 1,600,000 of these denazification surveys and removed nearly 374,000 Germans from positions in civil service, education, and other areas (many were later reinstated, either by the occupying powers or by indigenous authorities).<sup>38</sup> These numbers alone posed a massive problem to the U.S. military; “popular pressures to demobilize” only compounded matters.<sup>39</sup> Rather than a shadowy Cold War conspiracy, recent works have pointed to the “lack of adequate [American military] manpower” to adjudicate this massive paperwork load as one of the major reasons for the failure of the early denazification programs.<sup>40</sup> As mentioned above, the military

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<sup>36</sup> Edward N. Peterson, *The American Occupation of Germany: Retreat to Victory*, (Detroit, MI: Wayne State University Press, 1977), 143.

<sup>37</sup> Surveys distributed by occupying powers in the western zones with an intent to ascertain levels of participation in Nazi crimes. These surveys were to be completed by individual Germans, with occupying powers assigning differing levels of guilt to the respondents.

<sup>38</sup> Biddiscombe, *Denazification*, 61.

<sup>39</sup> Biddiscombe, *Denazification*, 61.

<sup>40</sup> Biddiscombe, *Denazification*, 62.

government performed review of all business' self-reporting, which represented a "mammoth and quite impossible task" from sheer volume of documents.<sup>41</sup> This mirrored the narrative of investigations in the United States when the number of collaborators who may have been present in the United States is taken into account; a workload of this size militated against a true reckoning with the problem.<sup>42</sup>

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Narratives that would be possible to reasonably present if historians focused only on the leaders like Reinhard Gehlen or Kurt Waldheim who escaped punishment lose coherence when applied to these millions of fellow travelers and Wehrmacht draftees. While in the case of Waldheim or generals of the rearmed West Germany, for instance, it is reasonable to assert that the successful prosecution of the Cold War prevented NATO powers from punishing wartime military leaders, this clearly cannot be the case for millions of less famous Germans. Historians working on the subject of Nazi war criminals in the United States should adopt similar approaches, understanding that Cold War myopia is unlikely to have been the sole reason that the INS failed to investigate the presence of possibly thousands of unpunished war criminals in the United States.

Denazification histories have shown that the failure to prosecute Nazi war criminals *in situ* was at least in part a result of a desire to get on with daily life and to protect critical services. This is not to say that these histories argue denazification failed because Germans were saddling up to the challenge of being a Cold War partner, but rather that day-to-day concerns regarding

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<sup>41</sup> Peterson, *American Occupation*, 143.

<sup>42</sup> I offer my estimate of this number below.

<sup>44</sup> Peterson, *Retreat to Victory*, 144.

<sup>45</sup> Frederick Taylor, *Exorcising Hitler: The Occupation and Denazification of Germany*, (New York: Bloomsbury Press, 2011), 230.

administration, logistics, and other more prosaic matters took precedence over what many in Germany saw as “grotesque” witch hunts.<sup>46</sup> For instance, scholars like Perry Biddiscombe have investigated how the indispensable services of the *Reichsbahn*, the German railways, were protected from denazification by U.S. occupation authorities, who “exempted all but the most senior” National Socialists from expulsion because of the need for continued logistical capacity.<sup>47</sup> It was the question of “finding adequate replacements for dismissed Nazis” that loomed larger in the minds of military planners than questions of either military necessity or justice—or, for that matter, retribution.<sup>48</sup> German executors of denazification policy also worried about “wholesale collapse of the administrative structure.”<sup>49</sup> This overriding need for postwar stability was reflected in the INS as well; director of the OSI Allen A. Ryan, Jr., identified that investigators were “veterans of the war...and after the war they raised families and worked forty hours a weeks in a secure job,” more focused on bringing “home a paycheck” than making “Nazis a high priority.”<sup>50</sup>

Philosophical questions also plagued investigators; not necessarily everyone who was a member of the Party had directly been involved in the commission of a crime, while many who were not members of the Party at all were deeply implicated in the worst excesses of the Nazi period.<sup>51</sup> Both of these issues would later confront investigators of Nazi war criminals in the United States. As with denazification in Germany, American investigators had to rely on records scattered all over Germany in various archives belonging to either indigenous or occupation

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<sup>46</sup> Frei, *Adenauer's Germany*, 35.

<sup>47</sup> Biddiscombe, *Denazification*, 60.

<sup>48</sup> Biddiscombe, *Denazification*, 62.

<sup>49</sup> Biddiscombe, *Denazification*, 189.

<sup>50</sup> Allen A. Ryan, Jr., *Quiet Neighbors: Prosecuting Nazi War Criminals in America*, (San Diego: Harcourt Brace Jovanovich, 1984), 45.

<sup>51</sup> Tom Bower, *The Pledge Betrayed: America and Britain and the Denazification of Postwar Germany*, (Garden City, NY: Doubleday & Company, Inc., 1982), 145.



authorities, and which were not centralized until the establishment of the Berlin Document Center. For their own part, the INS had similar organizational deficiencies, and its files remained scattered among local offices until the late 1970s. Thorny philosophical and normative questions would also confront American investigators; what constituted persecution? How did concepts like due process and the imposition of ex post facto law affect the hunt for and punishment of Nazi war criminals in the United States? Scholars would do well to acknowledge the work that denazification historians have done on these topics and integrate their approaches into works on the American side of the story.

To conclude this historiographical review, scholars working on the issue of Nazi war criminals in America would do well to adopt the approaches of historians of denazification. The former group has generally evinced conspiratorial understandings of the collaborator presence in the United States, which they can only do by focusing on the small number of cases where this actually matches the evidence and ignoring the numbers of potential Nazi war criminals residing in America. Denazification historians have provided useful examples of improved approaches, including the highlighting of more prosaic reasons why denazification failed. These included logistical and administrative crises among denazification authorities, a general concern for societal stability, and the problem of investigating and prosecuting potentially millions of German nationals. As we will see in the investigation below, these facts are also present in the story of collaborators in the United States.

## CHAPTER 3

### HISTORICAL BACKGROUND

The identification, investigation, and prosecution of Nazi war criminals living in the United States was a massive administrative and moral failure of the United States government. Contrary to the reasons that apply to the case of the Paperclip scientists, this failure was the result of two major factors: the sheer bureaucratic morass of an immigration apparatus that expanded massively during and immediately after the Second World War; and a racist focus on regulating the arrival, labor, and departure of Mexican migrants, which came to dominate the minds of key figures in the immigration bureaucracy and its legislative allies. Other factors also contributed to the INS's failure, including a lack of resources and a deeply unmotivated workforce. Even the few cases which the United States government actually investigated contributed to fatigue among investigators, who experienced massive burnout as they worked to meet the high legal bars to denaturalization and deportation of war criminals.

#### A. Who were they and how did they get here?

The Second World War rendered much of Europe a wasteland and many millions of its inhabitants homeless, out of work, and lacking reliable access to food, medicine, and basic shelter. The final months of the war, in which German air defenses had been comprehensively smashed by Allied air power, were particularly devastating to Germany. While the bombing campaign may have had little effect on collective morale or industrial production, it killed large numbers of German civilians and destroyed huge portions of the housing stock in locations as

varied as the world-renowned city of Hamburg and the tiny Dollbergen, population 1,400.<sup>52</sup> German civilians, of course, were not the only people to be displaced: during the war Germany had forcibly relocated millions of mostly Slavic workers within its borders to serve as slave labor. At its height in the summer of 1944, this program resulted in the presence of six million noncombatants forced to labor on behalf of the Führer's government.<sup>53</sup> These forced laborers were joined by others, including Soviet citizens who fled before the advance of the resurgent Red Army for fears, real or imagined, of retribution by Soviet authorities. While some of those fleeing westward away from the Soviets were innocent of any wrongdoing, a portion of them had in fact collaborated with the Germans in the territories that came under the control of that country following 1939.<sup>54</sup>

This collaboration ranged from the relatively benign (e.g. ensuring the continued function of urban sanitation facilities) to the murderous, including participation in the horrific massacres of Jews organized by the SS and often carried out with the assistance of German police and local auxiliaries. Many of the members of this latter category were involved in local nationalist movements in the interwar period. As the German tanks and horse-drawn carts rolled in, some welcomed them as liberators, especially in places like Ukraine and the Baltic countries, for reasons as varied as memories of persecution by the Soviets or rabid anti-Semitism, which

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<sup>52</sup> Robinson, Debbie. "The Bombing of Germany 1940 - 1945." Centre for the Study of War, State and Society. University of Exeter, accessed February 19, 2020, <https://humanities.exeter.ac.uk/history/research/centres/warstateandsociety/projects/bombing/germany/>.

<sup>53</sup> Pagenstecher, Cord, and Valentina Stefanski. "Forced Labor – Background." Forced Labor 1939 - 1945: Memory and History. Freie Universität Berlin, May 7, 2008, <https://www.zwangsarbeit-archiv.de/en/zwangsarbeit/zwangsarbeit/zwangsarbeit-hintergrund/index.html>.

<sup>54</sup> It must also be said that Soviet authorities frequently viewed *any* Soviet citizen who had been abducted and forced to labor for the Germans as suspect; many of these were sent to the Gulag upon their repatriation whether out of concerns for loyalty or the need for labor to rebuild the USSR. See Mark Wyman, *DP: Europe's Displaced Persons, 1945-1951*, (Philadelphia: The Balch Institute Press, 1989), 84-85.

frequently was entangled with anti-communism in Eastern Europe.<sup>55</sup> Members of the indigenous fascist movements in countries like Romania, Bulgaria, Hungary, and the now-former Yugoslav republics were also among those left in Germany at war's end. These Eastern European fascists had, whether independently or under German tutelage, also participated in massacres of Jews, Communists, Social Democrats, national minorities, and other groups.

Of course, in a Europe devastated by a war the Germans launched, it was not only Eastern European fascists who were to be found in Germany. Some 18,000,000 Germans had served in the country's armed forces, and despite extremely heavy casualties, millions of these soldiers remained alive. It is important to note that, contrary to beliefs that were commonplace in the immediate postwar period (and stretching into the 1990s and 2000s), the traditional armed forces of Germany were deeply implicated in the worst crimes of the war. Army leadership, of course, was mainly responsible for the more grotesque and horrific war crimes including the starvation of millions of Soviet prisoners of war, but German soldiers in the field were also frequently guilty of more "quotidian" war crimes, including theft, rape, assault, and murder of the civilian population of the Soviet Union.<sup>56</sup> As the Germans stretched their empire ever eastward, the Wehrmacht was a willing and eager participant in these crimes, particularly as the "partisan wars" heated up to the rear of the front.<sup>57</sup>

Smaller, but more sensational in their violence were the Einsatzgruppen, and later the Waffen SS, Himmler's legions of "political soldiers." The Einsatzgruppen were responsible for

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<sup>55</sup> Wyman, *DP*, 182.

<sup>56</sup> Rolf-Dieter Müller, *Hitler's Wehrmacht, 1935-1945*, Translated by Janice W. Ancker, (Lexington, KY: University Press of Kentucky, 2016), <https://search.ebscohost.com/login.aspx?direct=true&db=cat06087a&AN=umass.015139149&site=eds-live&scope=site>, 144.

<sup>57</sup> Müller, *Hitler's Wehrmacht*, 147.

the mass murders of Jews and other minorities in places like Babi Yar, often augmented by regular army units or military police. The Waffen SS was initially comprised of legions made up of German volunteers, but during the course of the war expanded to include volunteer legions from many German-occupied countries. The Waffen SS was regarded by the Wehrmacht with “not unfounded distrust” based both on its usurpation of the army’s traditional patrimony but also its “numerous incidents of brutality and massacres” stretching from Poland to the Don River.<sup>58</sup> Eventually, the Soviet Union pushed the forces of the Wehrmacht, the Waffen SS, and their collaborators back into Nazi Germany, where most found themselves on May 8, 1945, the formal end of hostilities in Europe. This meant that, on V-E Day, millions of demobilized potential war criminals shuffled through the destroyed towns, villages, and cities of Germany.

As the war ground to its bloody end, many of these displaced persons found themselves under the authority of the Allied militaries. These millions of displaced persons, “DPs” in the administrative parlance of the time that has since become common, represented a serious problem for Allied authorities. A number of them could be repatriated to their countries of origin, sometimes happily—as for many French or Scandinavian DPs—and sometimes over strenuous protests—as for many Poles, Ukrainians, Latvians, Lithuanians, and other constituent Soviet nationalities.<sup>59</sup> The continued protests and independent cultural life of this latter group was a thorny problem for the Allies; for instance, Polish songs which referenced Soviet oppression frequently offended Soviet officials even in Western-run camps.<sup>60</sup> In another example, Croatian collaborators in displaced persons camps continued to loudly and defiantly celebrate the German- and Italian-sponsored establishment of the fascist Independent State of

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<sup>58</sup> Müller, *Hitler’s Wehrmacht*, 40.

<sup>59</sup> Wyman, *DP*, 165.

<sup>60</sup> Wyman, *DP*, 159.

Croatia.<sup>61</sup> Some, especially former Soviet citizens, remained in the camps for years. In response, many American relief organizations lobbied Congress to grant special exemptions from the country's racist and restrictive immigration laws and allow these refugees to resettle in the United States. In a cruelly ironic twist, these humanitarian exemptions, combined with resettlement officers in Europe's generous interpretations of what constituted aid to an enemy belligerent, ended up allowing numerous Nazi collaborators into the United States.<sup>62</sup>

The mechanism by which a number of these DPs and other Europeans, whether guilty of war crimes or not, relocated to the United States was the Displaced Persons Act of 1948. The passage of this act was the result of sustained lobbying campaigns by humanitarian organizations, but even it had substantial shortcomings compared to their desiderata. In particular, it mortgaged the number of DP arrivals from each country against that country's quota for future years, borrowing from the future to pay for the present. Despite these limitations, the Act nonetheless paved the way for the arrival of nearly 400,000 DPs.<sup>63</sup> Later amendments to the Act, which liberalized the procedures for allowing Jewish DPs into the United States, also unintentionally opened the gates to members of both the non-military and armed wings of the SS.<sup>64</sup>

Following close on the heels of the Displaced Persons Act, in 1953 the Eisenhower administration spearheaded the passage of the Refugee Relief Act. This act enabled the resettlement of another 185,000 or more DPs in the United States, along with additional

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<sup>61</sup> Wyman, *DP*, 159.

<sup>62</sup> Gerard Daniel Cohen, *In War's Wake: Europe's Displaced Persons in the Postwar Order*, (New York: Oxford University Press, 2012), 49.

<sup>63</sup> Wyman, *DP*, 202.

<sup>64</sup> Cohen, *In War's Wake*, 49.

immigrants from Soviet-controlled countries in the Eastern bloc.<sup>65</sup> Among many perfectly innocent and needy DPs, war criminals and collaborators used the legal channels of the Displaced Persons and Refugee Relief Acts to resettle in the United States. The criminal acts of the guilty among this group took many forms; some had worked as camp guards, other in indigenous fascist organizations or governments, and some volunteered for or were conscripted into the foreign legions of the Waffen SS. And of course, as discussed above in the historiographical review, a number of German scientists working in key defense industries would be spirited into the United States, or have their applications sped along, by the military and intelligence agencies. Their stories, however, have been told in detail; it is to the efforts to locate the lesser-known Nazis collaborators that we will now turn.

### **B. Early efforts at location**

Advocates of the Displaced Persons and Refugee Relief Acts were aware that some Nazi war criminals could take advantage of the opportunity to come to the United States by downplaying or hiding their wartime activities. Screening was put in place in the DP camps in Europe to ascertain the backgrounds of potential refugees. Detainees, however, were obviously anxious to avoid being classed as collaborators, and came up with numerous strategies to deflect the questions asked of them.<sup>66</sup> In general, DPs who wanted to do so were able to successfully convince camp workers that they were deserving of refugee status and resettlement. Because of the structure of the Displaced Persons Act, which accepted *tout court* the classifications of the aid workers in displaced persons camps in Europe, there was almost no further investigation of a DP's past once the initial determination on refugee status had been made. Investigators did not

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<sup>65</sup> Wyman, *DP*, 202.

<sup>66</sup> Wyman, *DP*, 178-204.

proactively attempt to determine whether refugees arriving in the United States had collaborated with the German or other Axis governments, and relied mostly on outside tips or intra-camp denunciations to determine whether migrants arriving under the provisions of the Displaced Persons and Refugee Relief Acts had committed immigration fraud or participated in wartime persecutions.

Once alleged collaborators arrived in the United States, responsibility for investigating allegations fell upon the Immigration and Naturalization Service. This agency had always been something of a red-headed stepchild in the United States government. It had a long, winding path from Cabinet department to Cabinet department and a long history of development within the federal state, with responsibilities and statutory authorities delegated and taken away with little warning or ramp-up time. The first agency to regulate immigration was the Office of the Superintendent of Immigration, founded in 1891 under the Treasury Department. In 1903, the newly renamed Bureau of Immigration was transferred to the Department of Commerce and Labor; its duties were augmented in 1906 to include overseeing naturalization processes. These responsibilities were split into two Bureaus in 1914. Finally, in 1933 Congress merged the Bureau of Immigration with the Bureau of Naturalization to form the Immigration and Naturalization Service, which Franklin Delano Roosevelt moved to the Justice Department in 1940. The Immigration and Naturalization Service would remain there until 2003, when it was dissolved, and its functions transferred to various successor agencies housed in the Department of Homeland Security and the Department of Justice.

Prosecutions in this period tended to be high-profile, controversial, time-consuming, and difficult when they happened at all. Only five deportation cases were initiated by the INS during the entire decade of the 1950s, of which only one resulted in the defendant leaving the United



States.<sup>67</sup> The Eichmann trial sparked some public interest, and generated some additional charges in the 1960s, but still few convictions, and fewer deportations. These cases were separated into two parts: denaturalization and deportation, both of which had enormously high evidentiary requirements and standards of proof. Investigations and trials could take years, sometimes decades, only for appeals to render the process worthless because judges so often feared repatriating denaturalized criminals to countries like the Soviet Union or Yugoslavia, where it was likely they would face “conviction and execution” at “the hands of [their] enemies.”<sup>68</sup> Other options, like sending guilty collaborators to Ireland or Latin American countries, were available, but American authorities wanted to avoid accusations that they were sending Nazis to cushy retirements and so decided “it was safest not to do anything.”<sup>69</sup> Attempts by European countries to secure extradition of naturalized war criminals frequently failed as well. Neither the INS nor the State Department were convinced that trials in communist countries, which issued the majority of extradition requests, would ensure due process of the accused.<sup>70</sup> All of these factors contributed to a dismal record of successfully prosecuting Nazi war criminals in the United States.

This record of failure continued throughout the 1960s and 1970s until increased scrutiny from Congress forced the INS into action. Elizabeth Holtzman shockingly defeated 25-term immigration policy giant Emanuel Celler in the New York Democratic congressional primary and occupied his seat in 1972. Holtzman, who was herself Jewish and represented a heavily Jewish district in Congress, was contacted by an INS official and informed that the government

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<sup>67</sup> Schliessl, *Alleged Nazi Collaborators*, 93.

<sup>68</sup> Ryan, *Quiet Neighbors*, 156-158.

<sup>69</sup> Schliessl, *Alleged Nazi War Criminals*, 96.

<sup>70</sup> Schliessl, *Alleged Nazi War Criminals*, 108-109.

knew of but did nothing about a number of Nazis living in the United States. Similarly concerned about the issue was Representative Joshua Eilberg, who from 1973 to 1978 served as the chairman of the House Judiciary Subcommittee on Immigration.<sup>71</sup> In response to these efforts, the INS agreed in 1977 to create a Special Litigation Unit to investigate Nazi war criminals. The SLU, however, failed to produce results. After a series of confrontational hearings, General Accounting Office probes, and congressional investigations, Holtzman (and, to a lesser degree, Eilberg) spearheaded the founding of the Office of Special Investigations in 1979, which removed the responsibility for prosecuting Nazi war criminals from the INS and placed it in the Justice Department directly under the Attorney General.

### C. Assessment of INS efforts

Before assessing the success or failure of the INS's efforts to locate Nazi war criminals in the United States, one important historical question must be answered: just how many of these people might there have been? The historical record seems to support Allen A. Ryan, Jr.'s contention that more than 10,000 war criminals could have been hiding in the United States. Some 18,000,000 Germans served in the armed forces of Nazi Germany over the course of the Second World War. The German military also augmented this number by drafting locals (e.g. Russians, Ukrainians, or Cossacks), who were either absorbed into the traditional armed forces, enrolled in the foreign legions of the Waffen SS, or corralled into collaborationist forces like Andrei Vlasov's Russian Liberation Army.<sup>72</sup> The vast majority of these served on the Eastern Front, where war crimes were extremely common. The SS, including the Waffen SS, was

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<sup>71</sup> Rochelle G. Saidel, *The Outraged Conscience: Seekers of Justice for Nazi War Criminals in America*, (Albany, NY: State University of New York Press, 1984, 103-122.

<sup>72</sup> Müller, *Hitler's Wehrmacht*, 78-82.

declared a criminal organization *prima facie* at the Nuremberg Trials. Because of this determination, anyone who had been a member of either the SS itself or any subsidiary organizations could be considered a war criminal.

The Wehrmacht was also directly responsible for its own share of illegal violence, again from the level of the high command down to the individual *Soldat* carrying out reprisals for partisan attacks. Upon the invasion of the Soviet Union, the Wehrmacht assumed for itself the responsibility of “pillag[ing] the country,” treating the “east [as] only a colonial exploitation area” where there “was no need to pay the slightest heed to the indigenous population.”<sup>73</sup> In the German war in the East, the Wehrmacht could not keep its low-level troops from “having to fight the war of ideologies;” that is, the war of extermination of civilian populations.<sup>74</sup> As Omer Bartov succinctly put it, average soldiers “either participated in numerous massacres or witnessed them at close quarters, and many...reported such events whether with fascination, glee, or horror...the young men who rebuilt both Germanys had...been closely associated with genocide during their long years of service in uniform.”<sup>75</sup>

The average soldier was thus likely to have been at least a witness to some event which could rise to the level of a war crime; “German combat troops...showed little reluctance, indeed often demonstrated much enthusiasm, in carrying out the ‘criminal orders’” handed down by high command.<sup>76</sup> In the final analysis, the “attempt to differentiate between the Wehrmacht and the SS...presents a wholly false picture of historical reality.”<sup>77</sup> Even general social distinctions

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<sup>73</sup> Müller, *Hitler's Wehrmacht*, 142.

<sup>74</sup> Müller, *Hitler's Wehrmacht*, 145.

<sup>75</sup> Omer Bartov, *Germany's War and the Holocaust: Disputed Histories*, (Ithaca: Cornell University Press, 2013), ProQuest Ebook Central, xii.

<sup>76</sup> Bartov, *Germany's War*, 8.

<sup>77</sup> Bartov, *Germany's War*, 14.

like class and upbringing seem to have dissolved in shared loyalty to the regime and willingness to commit war crimes.<sup>78</sup> Soldiers who never fired at, stole from, or otherwise abused civilians may nonetheless have been guilty of war crimes if they participated in the detention, starvation, and murder of Soviet prisoners of war. Indeed, many of the convictions that American courts later handed down, including to Hermine Braunsteiner-Ryan and others like her, were for low-level guards at concentration camps. An estimate of 10% of demobilized German and collaborator soldiers having committed war crimes thus seems reasonable, if not charitable. That would equal some 1,800,000 potential war criminals from the military alone. These numbers do not account for the fact that some 600,000 members of the Nazi party itself were declared by the Nuremberg tribunal to have been criminals irrespective of individual actions.<sup>80</sup>

The second question is how many of these potential criminals migrated to the United States. These estimations are difficult to make and are in part based more on logic than empirical data, which are scarce in the source material. Scholars and social scientists have been reluctant to provide hard numbers in their estimates. It is, however, possible to conduct some back-of-the-envelope math to arrive at a possible figure. Recognizing that these estimates can be criticized, I have purposely opted to use low percentages for the following numbers. In fiscal year 1948, after the quotas had been reopened, 21,365 German citizens immigrated to the United States, including DPs with German citizenship; by 1960 there were nearly one million immigrants in the United States who had been born in Germany.<sup>81</sup> More than half a million DPs

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<sup>78</sup> Bartov, *Germany's War*, 27-28.

<sup>80</sup> "Judgment of the International Military Tribunal." Avalon Project. Yale Law School, 2008. [https://avalon.law.yale.edu/subject\\_menus/judcont.asp](https://avalon.law.yale.edu/subject_menus/judcont.asp).

<sup>81</sup> U.S. Congress, Senate, Committee on the Judiciary, *The Immigration and Naturalization Systems of the United States (Pursuant to S. Res. 137)*, 80<sup>th</sup> Cong., 1st sess., 1950, 104; "Countries of Birth for U.S. Immigrants, 1960-Present." [migrationpolicy.org](https://www.migrationpolicy.org). Migration Policy Institute, February 13, 2020. <https://www.migrationpolicy.org/programs/data-hub/charts/immigrants-countries-birth-over-time>.

entered the United States in the wake of the war; more citizens of Soviet-occupied countries would enter the United States as refugees over the course of the Cold War.<sup>82</sup> One population worthy of note were the *Volksdeutsche*, ethnic German inhabitants of east European countries who benefitted disproportionately from and often heavily collaborated with German occupation efforts. The *Volksdeutsche* were specifically allotted 50% of the quota visas from Germany and Austria in the immediate postwar period.<sup>83</sup>

Specific demographic information on these immigrant populations is difficult to find. Of the one million German passport-holding immigrants residing in the United States by 1960, I assume at least 10% of them were veterans of the war, some 100,000. Relying on the above estimate that 10% of Wehrmacht soldiers could be found guilty of some type of war crime, whether related specifically to the Holocaust or not, this yields 10,000 regular, non-DP German immigrants who could be considered war criminals. Further, it seems reasonable to assume that DPs admitted under the Displaced Persons Act and later legislation either committed war crimes as part of uniformed military service, collaborated in some capacity with occupation governments, or served indigenous fascist movements at a rate of 2.5%.<sup>84</sup> It follows, then that out of a total population of 500,000, some 12,500 DPs guilty of war crimes may have entered the United States. Even if the above figures represent a drastic overestimate, if only 1% of DPs participated in criminal activities during the war, that would represent 5,000 people. Added to my estimate of guilty Wehrmacht veterans in the United States, this accounting yields a total number of anywhere from 15,000 to 27,500. What, then, to make of the fact that only some

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<sup>82</sup> Wyman, *DP*, 202.

<sup>83</sup> U.S. Congress, Senate, Committee, *The Immigration and Naturalization Systems of the United States*, 427.

<sup>84</sup> One-quarter the rate of the Wehrmacht committing war crimes to account for innocent Eastern Europeans and *Volksdeutsche* among the DP population.

several hundred allegations were investigated by the INS? What were the reasons for this failure?

As documented above, historians of Nazi war criminals in the United States have seized on a handful of cases, which they have instrumentalized to show that Nazi war criminals escaped justice largely for reasons relating to the Cold War. In many of the more high-profile cases that have received scholarly and popular attention, this framing has merits: the CIA, the FBI, or the military did indeed stymie efforts to investigate the individuals or knew about their pasts at the time of admission. Not every war criminal, however, was Wernher von Braun, and most were not even Andrija Artukovic or Bishop Trifa. Hermine Braunsteiner, the low-level camp guard who was eventually denaturalized and deported for physical violence against camp inmates (e.g. striking and kicking prisoners), was probably more typical. Based on the math above, thousands more people whose acts were similar to hers and could have been prosecuted, had they been discovered, were likely in the United States. With a truer appreciation for the nature and number of the crimes of most people who could have been investigated, the Cold War narrative breaks down. Scholars of Nazi war criminals in the United States need to propose alternate explanations for the failure of the American government to impose justice, several of which I offer below.

The first reason for the INS's failure was organizational and institutional. The INS in the period immediately following the war was "severely disorganized." In Congressional hearings, investigators discussed how agency failures were at least in part the result of "how the agency

[was] organized and did its business in the old days.”<sup>85</sup> Applicants to the Service were viewed by other public servants as the dregs of the bureaucracy; “agents were often culled from applicants who could not qualify for the FBI, [IRS], Treasury, or other prestigious operations.” The agency was “ingrown” and horribly organized, a “fleet of lesser ships, each with its own captain, loosely subject to the commands of an admiral who was never quite sure where all his ships were heading,” in one imaginative and illuminating metaphor.<sup>86</sup> Even after the organization of the Special Litigation Unit in July 1977, the INS offices responsible for investigating Nazi war criminals remained a “nest of inefficiency, incompetence, and absolute dead-level inertia.”<sup>87</sup>

Not only did the agency not have a systematized process for investigating allegations of war crimes, “nothing was on a computer in that entire agency, nothing. There was no computerization of any data.”<sup>88</sup> Again, even as late as the 1970s, the implacable Charles R. Allen, Jr. described the inner workings of the INS as follows:

I went into one room which [INS officials] showed us in order to demonstrate what [they] had inherited [from previous officials responsible for investigating Nazi war criminals]. The sloth, the mismanagement, in terms of management of—from an efficiency point, not a moral point, a total corruption of office management. There were stacks and stacks and stacks in this one large room, as large as this room we are in now, stacks and stacks and stacks of unopened file cabinets and boxes and cardboard cartons, with visa entry

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<sup>85</sup> U.S. Congress, House of Representatives, Committee on the Judiciary, *Second Session on Alleged Nazi War Criminals: Hearing Before the Subcommittee On Immigration, Citizenship, And International Law*, 95<sup>th</sup> Cong., 1st sess., 1977, 15.

<sup>86</sup> Ryan, *Quiet Neighbors*, 31.

<sup>87</sup> U.S. Congress, House, Committee, *Second Session on Alleged Nazi War Criminals*, 37.

<sup>88</sup> U.S. Congress, House, Committee, *Second Session on Alleged Nazi War Criminals*, 37.

applications falling all over the floor and with other just deplorable conditions...I have done stories in the past on the INS and I have never been particularly impressed with that agency's qualitative level of operation or conceptual abilities.<sup>89</sup>

Representative Elizabeth Holtzman noted critically that, in many cases, sheer overwork and lack of prioritization led to a “[two]-year delay in interviewing all the witnesses in...case[s] where proceedings have been instituted.”<sup>90</sup> As quoted in *The Jerusalem Post*, Holtzman claimed that the INS was “spinning wheels” and offering “[m]ere talk of ‘continuing investigations.’”<sup>91</sup> The vast majority of the Congressional committee’s questions to the Commissioner Leonel J. Castillo and various other INS officials were answered with some version of “I don’t know” or “I am not familiar with that case;” the Commissioner’s own knowledge of these cases was nearly nonexistent. To defend himself and his agency, Commissioner Leonel J. Castillo stated that he “[didn’t] know why we didn’t move more vigorously. I really could not tell based on what I know about these cases, why we didn't move more vigorously.”<sup>92</sup> The INS’s self-defense in these hearings hardly argued against the assertion that it was “one of the most clumsy divisions in the U.S. governmental bureaucracy.”<sup>93</sup>

The INS’s proposed solution to its organizational problems belies the pitiful state of the agency prior to 1977; Commissioner Castillo recommended that “all existing files and material connected with the Nazi war criminal program...be transferred from New York and other district

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<sup>89</sup> U.S. Congress, House, Committee, *Second Session on Alleged Nazi War Criminals*, 38.

<sup>90</sup> U.S. Congress, House, Committee, *First Session on Alleged Nazi War Criminals*, 35.

<sup>91</sup> Matthew Rinaldi, “Guilty but Free,” *The Jerusalem Post*, April 6, 1979.

<http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/921860439?accountid=14572> (accessed February 24, 2020).

<sup>92</sup> See e.g. U.S. Congress, House, Committee, *First Session on Alleged Nazi War Criminals*, 36.

<sup>93</sup> Wolf Blitzer, “Bringing Nazis to Trial,” *The Jerusalem Post*, December 7, 1979.

<http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/921865146?accountid=14572> (accessed February 24, 2020).



offices to the central office here in Washington...the review of these files [should] be accomplished by attorneys rather than by investigators.”<sup>94</sup> Clearly this meant that investigations had been handled unsystematically by individual field offices, supervised largely by investigators trained little if at all, and that no unity of purpose animated the search for Nazi war criminals. The investigations, and the files needed for these efforts, were “spread throughout the country, distributed in such a way that it was very difficult to assess responsibility; very difficult to even know where all the files were. And, therefore, it was almost impossible for a concentrated effort to develop.” The state of the organization was so bad that “such things as mundane as the numbering of pages, and numbering of documents, [or] making microfilm copies to be saved somewhere else” had never been carried out.<sup>95</sup> Microfilms, it seemed, would have been considered advanced technology at the INS; when Holtzman asked Castillo how the Service intended to track immigrants without computers, he “raised a manila folder. ‘Most of our files are maintained in brown folders like these.’”<sup>96</sup> In seemingly low-stakes budget hearings, totally divorced from the Nazi war criminal question, Castillo and his aides answered routine questions “with apparently unsubstantiated approximations, estimates, and frequent referrals to studies or matters under study,” a performance which members of the committee described as “inexcusable.”<sup>97</sup> Service higher-ups were, in the words of one understandably disgruntled former employee, not fit to provide “proper and inspired leadership.”<sup>98</sup> In an organization with

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<sup>94</sup> U.S. Congress, House, Committee, *First Session on Alleged Nazi War Criminals*, 24.

<sup>95</sup> U.S. Congress, House, Committee, *First Session on Alleged Nazi War Criminals*, 36.

<sup>96</sup> Warren Brown, “Castillo, on Hill to Seek INS Funds, Comes Away with a Rough Grilling,” *The Washington Post*, March 16, 1979.  
<http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/147095160?accountid=14572> (accessed February 27, 2020).

<sup>97</sup> Warren Brown, “Castillo, on Hill to Seek INS Funds, Comes Away with a Rough Grilling,” *The Washington Post*, March 16, 1979.  
<http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/147095160?accountid=14572> (accessed February 27, 2020).

<sup>98</sup> U.S. Congress, House, Committee, *Second Session on Alleged Nazi War Criminals*, 134.

this level of dysfunction, no conspiracy of silence was necessary to silence claims of collaboration and obstruction; incompetence and disorganization were enough to confound any would-be Nazi hunters.

The INS's failure to follow up on FBI tips is also demonstrative of another reason for the agency's failure: the INS investigators were, for the most part, reliant on tips originating outside the agency. There was no office dedicated to proactively investigating immigration fraud (the offense with which the agency charged most Nazi war criminals who they did manage to identify).<sup>99</sup> Prior to 1973 there was not even a "formal system by which these allegations" from other agencies (or independent outsiders like Charles R. Allen, Jr.) could be investigated; cases were assigned ad hoc to investigators with no central clearinghouse.<sup>100</sup> Some of the agency's most high-profile cases, including that of Feodor Fedorenko, were initiated only upon receipt of extensive documentation from Simon Wiesenthal or other private Nazi hunters; even then, "mounting pressure" from both the public and other governmental bodies was necessary for the agency to begin any kind of investigation.<sup>101</sup> Even upon receiving tips from the FBI, the INS frequently failed to investigate; after the FBI "informed INS [*sic*] of five persons alleged to be Nazi war criminals," the INS did not review the information and "there was no formal procedure for reviewing documents referred by other agencies."<sup>102</sup> During the course of investigations,

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<sup>99</sup> The charge of immigration fraud was the most useful because the acts which governed the entry of most Nazi war criminals—either the Displaced Persons Act, the Refugee Relief Act, or the Immigration and Nationality Act of 1952 (commonly known as the McCarran-Walter Act)—did not create exclusion categories based on wartime activities, only for fraudulently procuring immigration benefits. Specific exclusion categories based on persecution of others for racial, religious, political, or other reasons were not instituted until 1976.

<sup>100</sup> U.S. Congress, House, Committee, *First Session on Alleged Nazi War Criminals*, 44.

<sup>101</sup> Matthew Rinaldi, "Guilty but Free," *The Jerusalem Post*, April 6, 1979.

<http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/921860439?accountid=14572> (accessed February 24, 2020).

<sup>102</sup> U.S. General Accounting Office, *Widespread Conspiracy to Obstruct Probes of Alleged Nazi War Criminals Not Supported by Available Evidence—Controversy May Continue*, GGD-78-73, (Washington, D.C., 1978), 10.

Service employees would often receive tips from the general public; they were, however, “deluged, and...not in a position to organize the material...We didn’t even have enough money for our witnesses” in the case at hand.<sup>103</sup>

This bureaucratic incompetence, bordering on malpractice, was at least partly the result of the massive increase in the size and importance of the INS in the second half of the twentieth century without a corresponding increase in manpower. Initially, this was accompanied by an increase in funding for the agency, but this was never enough to meet its (perceived) needs. In its 1954 “Operation Wetback,” the Service responded to criticism of its laxity along the border by turning its attention to the supposed flood of undocumented Mexican workers present in Texas, Arizona, New Mexico, and California. 800 Border Patrol agents used a small fleet of military surplus vehicles to arrest and deport some 1,000,000 or more Mexican nationals. Even this major undertaking received only a little more than one-hundred million inflation-adjusted dollars, which would seem to modern observers to be a shoestring budget.<sup>104</sup> In the midst of this massive operation, the Service had to rely on “cost-saving strategies” to make up for “the shortage of...personnel.”<sup>105</sup> Once the Operation concluded, the Service reorganized and initiated the use of “seventy-three two-man teams of officers” to surveil the border; compared to previous efforts, “the best [these teams] could do was...‘just grab somebody.’”<sup>106</sup> Deportations and apprehensions declined precipitously. In testimony that prefigured Commissioner Castillo’s in 1977, Commissioner Joseph Swing, a retired lieutenant general, defended his record using the

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<sup>103</sup> *U.S. Congress, House, Committee, Second Session on Alleged Nazi War Criminals*, 145.

<sup>104</sup> S. Deborah Kang, *The INS on the Line: Making Immigration Law on the US-Mexico Border, 1917-1954*, (New York: Oxford University Press, 2017), 159; Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America*, (Cambridge: Harvard University Press, 2006), 321

<sup>105</sup> Kang, *The INS on the Line*, 158.

<sup>106</sup> Kelly Lytle Hernandez, *Migra!: A History of the U.S. Border Patrol*, (Berkeley: University of California Press, 2010), 190.

weak logic that “[f]ewer apprehensions...were a clear indication that fewer Mexican nationals were attempting illicit entry.”<sup>107</sup> Even the one aspect of its work that was its priority, deportation and policing of the southern border, the Service carried out poorly, and the post-“Wetback” years would see the Service and the Patrol largely retreat from strict enforcement.

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The lack of results the Service was able to deliver were also partly the result of a massive, persistent crisis of morale among employees, which in turn compounded ill-thought out bureaucratic structures. The INS was (understandably) a broadly unpopular agency and morale was generally low, even among senior officers like Castillo. The agency frequently found itself “under attack from all sides,” and faced allegations that it was not “doing enough to exclude illegal...aliens” while others charged that it was “insensitive to immigrants.”<sup>114</sup> Agency officials had to defend district offices from accusations of harassment against non-white immigrants, including African students, and news coverage of the INS tended to be negative in tone.<sup>115</sup> Low morale in the agency was not solely caused by the failures to deport Nazis. In general, it seems that INS employees were deeply unhappy in the organization; the New York Times claimed that “dozens of career...employees of the [INS] in three states indicate that many have lost their

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<sup>107</sup> Hernandez, *Migra*, 191.

<sup>112</sup> Muzaffar Chishti, Faye Hipsman, and Isabel Ball. “Fifty Years On, the 1965 Immigration and Nationality Act Continues to Reshape the United States.” migrationpolicy.org. Migration Policy Institute, March 2, 2017, <https://www.migrationpolicy.org/article/fifty-years-1965-immigration-and-nationality-act-continues-reshape-united-states>.

<sup>113</sup> Luther A. Huston, “U. S. REORGANIZES ITS ALIEN SERVICE: IMMIGRATION AGENCY CHANGES INCLUDE PERSONNEL SHIFTS -- DECENTRALIZATION STRESSED,” *The New York Times*, December 01, 1954. <http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/112903185?accountid=14572> (accessed February 27, 2020).

<sup>114</sup> “INS Head Considers Resigning,” *The Washington Post*, July 13, 1979. <http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/147114531?accountid=14572> (accessed February 28, 2020).

<sup>115</sup> James Cassell, “INS Denies it Is Harassing African Students,” *Philadelphia Tribune*, June 28, 1975. <http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/532690748?accountid=14572> (accessed February 28, 2020).

motivation” because senior leadership, including Commissioner Castillo, was “unconcerned” with enforcing the law in general (though in this case specifically referring to undocumented Mexican immigrants).<sup>116</sup>

Among Service agents specifically concerned with Nazi hunting, even employees who did not believe in a cover-up, morale was even lower. Vincent Schiano, a former INS lawyer who testified before Congress, detailed how during the “prosecution of...these cases,” he and his fellow employees “felt oppressed. We were denied a telephone, an office, any funding or even courtesies...For two of us to occupy that office, one of us would have to climb over the desk.” He could not say whether he “considered it a comedy or tragedy.”<sup>117</sup> Upon hearing the news that the new Special Litigation Unit had been awarded a budget of some \$2.6 million, he “confess[ed] to a certain envy. The budget [fellow lawyer] Tony DeVito and I enjoyed was more like \$2.6 (*sic*), expended mostly for coffee and doughnuts for the visiting press.”<sup>118</sup> DeVito’s own morale sunk so low that he fell into fanciful, almost feverish conspiracy theories which were explicitly debunked by coworkers but adopted by journalists and authors in book-length works on this period.<sup>119</sup> This was hardly an environment in which Service employees investigating Nazi war criminals would feel supported and able to perform their duties to the best of their abilities.

Another difficulty facing INS investigators, and which also negatively impacted employee morale, was that the entire process seemed futile. Even in the limited number of cases

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<sup>116</sup> Robert Lindsey, “Immigration Chief Called ‘Soft’ on Illegal Mexican Aliens,” *The New York Times*, November 19, 1978. <http://silk.library.umass.edu/login?url=https://search.proquest.com/docview/123587200?accountid=14572> (accessed February 28, 2020).

<sup>117</sup> U.S. Congress, House, Committee, *Second Session on Alleged Nazi War Criminals*, 135.

<sup>118</sup> U.S. Congress, House, Committee, *Second Session on Alleged Nazi War Criminals*, 133.

<sup>119</sup> Sidel, *The Outraged Conscience*, 87-102.

where war criminals had been identified and placed in proceedings, the likelihood of denaturalization was low, and of deportation even lower. The subject matter itself was of course depressing; employees found it “draining to work...on an issue as overwhelming...as the Holocaust.”<sup>120</sup> But beyond the gloomy topic of their work, INS investigators and prosecutors felt themselves to be “doomed to failure.”<sup>121</sup> As mentioned above, investigating tips required interagency cooperation, not something to be taken for granted in the provincial world of the federal bureaucracy. Archives in other countries, particularly the Soviet Union, were either inaccessible or viewed by the State Department with suspicion. Agreements between the INS and State to formalize procedures for investigators traveling to the Soviet Union were not honored. Supervisors and political appointees in the Department of Justice, for their part, preferred that “a formal request to the Soviet Government [*sic*] await the definite scheduling of trial dates” in individual cases—an obvious Catch-22 since important archives and potential witnesses were located in the Soviet Union and could not be accessed without such a request.<sup>122</sup>

The Service was never truly equipped to investigate the collaborator population itself at any kind of scale. Charles R. Allen, Jr., for instance, pointed to the fact that the Nazi war criminal problem was much broader than previously understood, with much higher numbers of potential criminals present in the United States. In his testimony before Congress, he stated that most investigations left out “anything above field grade officers from the Wehrmacht...[and] many of the prominent influences in the Nazi circles, the Nazi Party, the SS, and the government, foreign offices, the educational system or industry, and banking leaders of the Third Reich who

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<sup>120</sup> Feigin, *Office of Special Investigations*, 560.

<sup>121</sup> Ryan, *Quiet Neighbors*, 330.

<sup>122</sup> U.S. Congress, House, Committee, *First Session on Alleged Nazi War Criminals*, 27.

have been so used since the end of World War II.”<sup>123</sup> Allen highlighted that up to 1979, there had only been around 149 investigations, a vanishingly small number given the size of the influx of Germans in the postwar period, many of whom had been deeply embedded in a regime founded upon genocide and murder. The INS’s efforts to defend itself in the face of Congressional pressure also testify to the paltry numbers of investigations. Commissioner Castillo, in front of the Subcommittee on Immigration, Citizenship, and International Law, identified only 43 ongoing investigations, 22 preliminary reports, and others elsewhere in the pipeline for a total of 103 cases in an effort to show that the INS had in fact been pulling its weight.<sup>124</sup> INS employees, including Vincent Schiano, who had been with the INS for a total of 18 years and worked on Nazi investigations frequently, “was not aware of how many there were,” referring even to the limited number above.<sup>125</sup> As mentioned above, this was not even close to the number of official tips the INS had received, many of which languished on the desk of clerks in the regional offices across the United States. The Service had never been prepared to accommodate the actual numbers of individuals needing investigation, and this would remain the case until Congress removed their responsibility for this task.

In cases where investigators were able to surmount these difficulties, they still faced massive legal hurdles in prosecuting collaborators, which led to corresponding morale issues and feelings on the part of investigators that cases were not worth the time. In part this was because each case was really two cases: denaturalization, in which immigration fraud had to be proven by “clear, unequivocal, and convincing evidence;” and the deportation proceeding, involving contacts with foreign and often semi-hostile governments and raising substantial due process

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<sup>123</sup> U.S. Congress, House, Committee, *Second Session on Alleged Nazi War Criminals*, 53.

<sup>124</sup> U.S. Congress, House, Committee, *First Session on Alleged Nazi War Criminals*, 23-26.

<sup>125</sup> U.S. Congress, House, Committee, *Second Session on Alleged Nazi War Criminals*, 144.

concerns.<sup>126</sup> As Allen A. Ryan, Jr., hardly someone with an interest in portraying the INS in a good light, put it, these cases held little to recommend themselves to investigators. INS lawyers were not “willing to put in the time” necessary to adequately investigate these cases, in which outcomes were far from assured. Furthermore, accolades and raises depended on results rather than morality. “INS investigators, and their supervisors...were not interested in protecting Nazis; they were interested in protecting their jobs, and this meant producing results in the cases assigned to them. Nazi cases were unpromising, unfamiliar, and uncertain.”<sup>127</sup> Demoralized employees looking out for their own career interests, with little support from supervisors, expertise in their task, or resources with which to conduct their search were hardly placed in the best possible position to investigate alleged Nazi war criminals. If the few cases which actually came across the desks of investigators like Schiano and DeVito faced these kinds of obstacles, why bother pushing for an investigation of the problem at its true scale and pursuing investigations of thousands of people?

And in fact, the effort to investigate these thousands was hampered by a focus on millions of a different group of people: Mexican migrants. In the period following the Second World War, the Service’s overwhelming priority was to prevent the unlawful migration of Mexican nationals and to police those already in the country. Operation Wetback was one element of this policy program, but it included the Bracero Program and the criminalization of the southern border in the 1960s and onward. From 1942 until 1964, the Bracero Program involved the importation of “unskilled” farm labor to work in agriculture in the border states during and after the Second World War. The Program consumed a huge amount of Service resources, both in

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<sup>126</sup> *Costello vs. United States*, 365 U.S. 265, 268 (1961); Ryan, *Quiet Neighbors*, 85-86.

<sup>127</sup> Ryan, *Quiet Neighbors*, 44-45.



administration of the Program itself and in managing the political minefield that it generated.<sup>128</sup> In fact, nearly all efforts at reform of the Service after the war centered on the southern border; Commissioner Swing was specifically hired to revamp enforcement, much to the chagrin of both southern agriculturalists and labor organizations which depended on migrant laborers.<sup>129</sup>

After the end of both the Bracero Program and Operation Wetback, enforcement priorities shifted from enforcing labor discipline into drug interdiction. In President Nixon's Operation Intercept, for example, the Border Patrol stopped every entrant, whether on foot or traveling by vehicle, to search for drugs; "[b]y the early 1970s, [Service employees] reported that the line between drug interdiction and migration control had become almost too difficult to decipher." The comingling of Mexican nationality with the category of "illegal immigrant" in the minds of Border Patrol agents, which then was conflated with "drug smugglers," led the Service to view all Mexican migrants as targets for enforcing drug laws.<sup>130</sup> In the aftermath of the Bracero Program and Operation Wetback, the Service focused heavily on this vision of "law enforcement," and its overwhelming emphasis on policing the southern border, controlling Mexican migration, and administering the government's drug war left little resources for other efforts, including investigating Nazi war criminals.

It is in this last regard that the parallels between denazification in Germany and the search for collaborators and war criminals in the United States becomes most clear. Germans (and occupiers) who opposed a thorough denazification program did so in large part because a true

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<sup>128</sup> See generally Kitty Calavita, *Inside the State: The Bracero Program, Immigration, and the I.N.S.*, (New York: Routledge, 1992); Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*, (Princeton, NJ: Princeton University Press, 2004), 127-166.

<sup>129</sup> U.S. Congress, House, Committee on Agriculture, *Farm Labor: Problems in the Southwest and Mexican Labor, Hearings Before the Subcommittee on Equipment, Supplies, and Manpower*, 85<sup>th</sup> Cong., 2nd sess., 1958, 471.

<sup>130</sup> Hernandez, *Migra*, 212-213.

reckoning with the immediate past would have destabilized what remained of Germany's administrative apparatus. Business leaders, water sanitation system managers, railway logistics engineers, teachers, civil servants, and others would have been purged if denazification had been carried out to the extent justice demanded. The basic foundation of German society and subsistence could have been threatened. Similarly, the INS and its legislative allies believed that a failure to adequately police the southern border and prevent the entry of Mexican migrants would have led to massive demographic shifts, threatening the basis of America as they knew it. The Bracero Program was implemented on the basis of contract labor explicitly because it allowed growers to exploit Mexican labor and then return them to their own country afterward, preventing them from integrating into American society and polluting the American racial makeup.<sup>131</sup> The INS viewed unregulated crossing of the border as a major threat, including it alongside alien saboteurs as their most important tasks during World War II.<sup>132</sup> In the world of postwar immigration enforcement, and in the eyes of the INS, Mexican migration to the United States represented a bigger threat to the underpinnings of American society than did the presence of Nazi collaborators and war criminals.

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<sup>131</sup> Calavita, *Inside the State*, 4.

<sup>132</sup> Hernandez, *Migra*, 105.

## CHAPTER 4

### CONCLUSION

In this thesis I have attempted to accomplish two things: to provide a historiographical synthesis of works on Nazi war criminals in the United States and denazification in Germany; and to provide a more accurate account of why collaborators in the United States were able to live their lives in America unmolested and, for the vast majority, to escape justice. In doing so I have also attempted to demonstrate that the scale of this failure is far vaster than previously estimated, and provided some additional arguments specifically related to this fact. In my investigation of the existing historiography, I noted that works on Nazi war criminals in the United States have tended to adopt what I call a “Paperclip approach,” centering on the historical narrative surrounding Operation Paperclip and applying it to cases where it does not fit the facts. They have also tended to attribute the failure to investigate collaborators to America’s Cold War anticommunism, even in cases where this does not logically apply. This has led to scholarship on collaborators in the United States, for the most part, to read as conspiratorial, and to provide borderline sensational narratives. As a corrective, I have attempted to show that works on denazification in Germany provide a more instructive template. These have focused less on Cold War politics and the overlap between U.S. military-industrial organizations and Nazis than on the more mundane reasons why denazification failed, including the need for administrative stability, the extremely complex politics of denazification, general disdain for programs imposed upon Germans by occupying powers, and administrative and logistical challenges of investigating and prosecuting potentially millions of people.

Moving past these two historiographical traditions, I have attempted to provide an alternative explanation for the failure of the Immigration and Naturalization Service to

investigate and prosecute Nazi war criminals living in the United States. Relying on testimonies before Congress, newspaper interviews with various outlets, accounts of investigative journalists, and several groundbreaking scholarly works which relied upon innovative use of archival sources, I have attempted to show that the INS failed to prosecute Nazi war criminals for reasons as prosaic as organizational dysfunction, lack of resources, morale crises within the agency, and an institutional focus on enforcing racist immigration policies on the U.S.-Mexico border. Furthermore, this story reveals that administering justice and determining who deserved punishment in the wake of humanity's greatest catastrophe was perhaps an insurmountable task from the start, even if those charged with conducting the investigation had been competent, driven, and focused, which was regrettably not the case.

Allen A. Ryan, Jr. summed up the importance of this story best in his *Quiet Neighbors*: “we have never known how to deal with Nazi war criminals in this country, and so our actions have been marked by ambivalence and equivocation.”<sup>133</sup> In the hunt for international lawbreakers, failure is less attributable to malice than to sloth, incompetence, lack of focus, and indecision. Where the search proved to be difficult, it was abandoned. Applied to our own time, we learn from the INS's failures from 1945 to 1979 that to root out and end the excesses and failures of the immigration and criminal justice systems, it is not conspiracies that we must attack, but bureaucratic inertia and inactivism.

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<sup>133</sup> Ryan, *Quiet Neighbors*, 324.

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