

# DRAFT WORKING PAPER

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CENTRAL INTELLIGENCE AGENCY  
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NAZI WAR CRIMES DISCLOSURE ACT  
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## Chapter Seven

### From the End of the Cold War to the Nazi War Crimes Disclosure Act (U)

The collapse of the Soviet Union and the end of the Cold War marked the biggest development in the Nazi war criminal investigations since the Nuremberg trials. For the first time since the end of World War II, tensions between East and West no longer complicated the pursuit of justice. As a result, the scope of the investigations dramatically increased. Neal M. Sher, who succeeded Allan A. Ryan, Jr., as the director of the Office of Special Investigations in 1983, declared ten years later, "people expected this office would have been out of work years ago, but we're busier now than we've ever been."<sup>1</sup> (U)

As the former Warsaw Pact countries experienced the first taste of democracy, US investigators gained entree into many of the Russian and other Eastern European archives that had never been accessible. The records provided bountiful new leads on Eastern European war criminals, who had committed atrocities and later had immigrated to the United States.<sup>2</sup> By 1999, OSI's investigations had resulted in the denaturalization of 63 individuals, and the deportation of 52 war criminals from the United States. The

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<sup>1</sup>Michael Isikoff, "Nazi-Hunting Office is Busier than Ever," *Washington Post*, 3 May 1993, p. A17. (U)

<sup>2</sup>Jane Mayer, "With Cold War Over, More Escaped Nazis Face US Deportation," *Wall Street Journal*, 16 April 1991, pp. A1 and A4. The opening of the STASI files in East Germany is also a bonanza for war criminal investigators. See Michael Shields, Reuters, "East German Files Cast Light on Nazi War Criminals," 1 May 1996. (U)

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Department of Justice's "watch list" had also prevented the entry of 150 suspected Nazis at American ports. (U)

Public interest in the Nazi war criminal investigations experienced a worldwide rejuvenation with the commemoration of the 50th anniversary of World War II. In the United States, the opening of the US Holocaust Memorial Museum in 1993 told the horrors of the Third Reich to a new generation, and the museum quickly became one of Washington's most popular tourist sites.<sup>3</sup> The prospects of "ethnic cleansing" in the Balkans and elsewhere raised painful memories of how the world had failed to stop the Nazis before the outbreak of world war. As the 20<sup>th</sup> century came to a close, students of the Holocaust as well as the surviving victims themselves grew concerned that the lessons of mass murder were being lost. As the Holocaust survivors died in increasing numbers, the Jewish community grappled with the need to obtain a final accounting of the material losses while fighting to preserve the memory of the Holocaust.<sup>4</sup> (U)

### Confronting Painful Pasts (U)

In the United States, the Nazi war criminal investigations took some unusual twists in the early 1990s. The past now came back to haunt the children of the DP generation that came to America in the 1940s and 1950s. President Bill Clinton discovered this in the summer of 1993 when he nominated Army Gen. John Shalikashvili

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<sup>3</sup>In addition, the Holocaust Museum offered scholars a first-rate library and research institution with records collected from countries throughout the world. The museum promised to spark renewed historical interest in the World War II period. See Sybil Milton, "Re-Examining Scholarship on the Holocaust," *The Chronicle of Higher Education*, 21 April 1993, p. A52.

<sup>4</sup>Marc Fisher, "Fragments of Memory," *Washington Post*, 7 April 1998, pp. D1 and D2. (U)

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for the position of chairman of the Joint Chiefs of Staff. Shortly after Clinton hailed Shalikashvili's rise to the nation's highest military rank from his humble immigrant background; the Simon Wiesenthal Center announced that the general's father had actually been an officer in a Georgian Waffen SS unit. Captured by the British at the end of the war, the Shalikashvili family moved to the United States in the early 1950s.<sup>5</sup> The appointment, one columnist wrote, made it appear that "the Clinton administration or the Pentagon—or both—have combined the smug arrogance of the ignorant with an attempt to repackage a Nazi into a political refugee." Columnist Richard Cohen protested, "the apparently purposeful recasting of the elder Shalikashvili from a Nazi soldier to a war refugee just to make a better Rose Garden ceremony is an insult to the victims of Nazism and shows contempt for the American people."<sup>6</sup> (U)

**OSI Prosecutions in the 1990s: Aleksandras Lileikas (U)**

In September 1994, OSI filed suit against Aleksandras Lileikas for commanding the Vilnius province element of the Lithuanian Security Police, known as the *Saugumas*, which had participated in the roundup and murder of thousands of Jews. While OSI initially reviewed Lileikas's DO file in 1983, it took 11 years for the Department of Justice to take the case to court until it located corroborating evidence in newly opened files in Eastern Europe. Lileikas, while still in Germany, had worked briefly for CIA

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<sup>5</sup>Thomas W. Lippman, "Pentagon Nominee's Father Served as Nazi SS Officer," *Washington Post*, 28 August 1993, pp. A1 and A14. (U)

<sup>6</sup>Richard Cohen, "Gen. Shalikashvili's Father," *Washington Post*, 31 August 1993, p. A19; Andrew Borowiec, "Elder Shalikashvili's Situation Not Unique," *Washington Times*, 31 August 1993, pp. A1 and A8. (U)

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during the 1950s. A U.S. federal court stripped him of his American citizenship in 1996, but he fled to Lithuania before American immigration authorities could deport him.<sup>7</sup> (U)

### OSI Prosecutions in the 1990's: The Demjanjuk Debacle (U)

No case has besmirched the prestige of the Office of Special Investigations more than its prosecution of John Demjanjuk. While OSI filed its largest number of suits in 1992, the Demjanjuk case cast a dark shadow over the entire Nazi war criminal investigations. Eleven years earlier, OSI stripped John Demjanjuk, a Ukrainian-born autoworker in Cleveland, of his citizenship for lying on his immigration application and his petition for naturalization. In one of its most important cases involving a Nazi war criminal, the Federal government claimed that Demjanjuk was the infamous "Ivan the Terrible" at the Treblinka concentration camp. In 1986, the United States extradited Demjanjuk to Israel to stand trial for these crimes. An Israeli court, indeed, determined that Demjanjuk had participated in war crimes and sentenced him to death. The Israeli Supreme Court, however, felt that there was reasonable doubt whether Demjanjuk was "Ivan the Terrible," although it agreed that he had served as a guard at another concentration camp. After much debate, Israel released Demjanjuk in September 1993

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<sup>7</sup>Pierre Thomas, "US Seeks to Deport Immigrant, 87, For Role in Deaths of Lithuanian Jews," *Washington Post*, 22 September 1994, p. A3; Kevin C. Ruffner, CIA History Staff to J. Kenneth McDonald, "Aleksandras Lileikis," 26 September 1994, (S), in DCI/HS Records, Nazi war criminal files. "Accused of Aiding Nazis, Man Returns to Lithuania," *New York Times*, 20 June 1996, p. A7; Judy Rakowsky, "Alleged Collaborator is Called Hero in Lithuania," *Boston Globe*, 12 November 1996, p. B3. (S)

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and returned him to the United States.<sup>8</sup> In 1998, Demjanjuk regained his American citizenship. (U)

Public pressure forced the United States Government to review the Demjanjuk case. In 1992, the 6th US Circuit Court of Appeals in Cincinnati launched an investigation into the handling of the case to determine whether there had been any misconduct on the part of OSI in its prosecution of the Ukrainian immigrant. The court questioned several former OSI attorneys, exposing differing opinions about the evidence used to convict Demjanjuk.<sup>9</sup> In June 1993, Judge Thomas A. Wiseman, Jr., declared that OSI's behavior had been "reckless" in not providing evidence that appeared to contradict the Government's case. But Judge Wiseman found the evidence did not disprove the case as the Office of Special Investigations had presented it. Thus, Wiseman held that OSI had not engaged in any prosecutorial misconduct. A second panel of judges from the same circuit court, however, then took up the case and reached a different conclusion. Chaired by Senior Judge Pierce Lively, the three-judge panel declared that the Office of Special Investigators, in particular its former director, Allan A. Ryan, Jr., and Norman

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<sup>8</sup>Numerous articles and books have been written on the Demjanjuk case. For some contemporary accounts, see Edward Walsh, "Protests Greet Demjanjuk's Return After Seven Years," *Washington Post*, 23 September 1993, p. A3. (U)

<sup>9</sup>See Sharon LaFraniere, "Ex-Prosecutor: Demjanjuk was Not 'Ivan the Terrible,'" *Washington Post*, 13 November 1992, pp. A1 and A22; Ronald Smothers, "Lawyer Recalls No Doubt on Nazi Guard," *New York Times*, 15 January 1993, p. A11; and David Johnston, "Doubt Cast on Identification of Nazi Guard 'Ivan,'" *New York Times*, 1 July 1993, pp. A1 and A14. (U)

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Moscowitz, had suppressed contravening evidence about Demjanjuk and bowed to pressure from Jewish interest groups anxious for a successful case.<sup>10</sup> (U)

The decision badly damaged the reputation of the Office of Special Investigations and prompted Attorney General Janet Reno to review the ethical standards of the Office's attorneys.<sup>11</sup> In February 1994, Neal M. Sher, director of OSI, announced his resignation to accept the executive directorship of the American Israel Public Affairs Committee.<sup>12</sup> After a lengthy interim period, Eli M. Rosenbaum, the WJC's lead investigator during the Waldheim affair and a former OSI attorney, assumed the helm at OSI in 1995. (U)

Despite the setbacks, OSI pressed with a new case against Demjanjuk. In May 1994, OSI asked the Supreme Court to throw out the appeals court ruling. In a brief signed by Solicitor General Drew S. Days III, the Justice Department sought to vindicate the OSI prosecutors and their efforts to strip Demjanjuk of his American citizenship. The Office of Special Investigations contended that its lawyers had acted in good faith to deport Demjanjuk. Their lapses in providing certain documents pertinent to the case did not constitute "egregious and deliberate misconduct, such as bribery of a judge or

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<sup>10</sup>Stephen Labaton, "Judges Assail US Handling of Demjanjuk," *New York Times*, 18 November 1993, pp. A1 and B20. (U)

<sup>11</sup>Michael Hedges, "Nazi-Hunting OSI Criticized Before, Reno Admits as Probe Continues," *Washington Times*, 7 February 1994, p. A8. (U)

<sup>12</sup>Stephen Labaton, "At the Bar: A Successful Prosecutor of War Criminals May Be Remembered for the Case that Fell Apart," *New York Times*, 27 August 1993, p. A21, and Michael Weisskopf, "Justice Official Named to Head Pro-Israel PAC," *Washington Post*, 11 February 1994, p. A23. (U)

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fabrication of evidence” that is normally cited as fraudulent behavior before the courts.<sup>13</sup>

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In 1999, OSI reopened the case when it filed suit against Demjanjuk whom it alleged had served as a guard at several concentration camps.<sup>14</sup> The Demjanjuk trial opened in Cleveland in May 2001 as both the prosecution and the defense grappled over the use of decades-old documents in what the defense attorney called a “trial by archive.”<sup>15</sup> In February 2002, Judge Paul R. Matia ruled that the Justice Department had proven that Demjanjuk had knowingly misrepresented his past when he arrived in the United States in 1952 with “clear, convincing, and unequivocal evidence.” Demjanjuk, in Matia’s opinion, had “not given the court any credible evidence of where he was during most of World War II.”<sup>16</sup> (U)

**The Search for Restitution (U)**

The plight of Holocaust victims in the former Soviet Union and in Eastern Europe attracted the attention of Jewish groups in the West, who mounted a vigorous campaign to aid these forgotten victims. Since the 1950s, West Germany had paid compensation to

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<sup>13</sup>Joan Biskupic, “US Challenges Fraud Ruling in Demjanjuk Case,” *Washington Post*, 25 May 1994, p. A15. (U)

<sup>14</sup>David Johnston, “Nazi Death Camp Case Reopened by US,” *New York Times*, 20 May 1999, p. A20. (U)

<sup>15</sup>Jerry Seper, “Justice Targets Man, 81, Again,” *Washington Times*, 29 May 2001, p. A6; Associated Press, “Government Tries Demjanjuk Again,” *Washington Times*, 30 May 2001, p. A7; Francis X. Clines, “US Again Prosecutes Man Cleared of Being Reviled Nazi,” *New York Times*, 30 May 2001, p. A15; and Associated Press, “Witness Deems Documents about Demjanjuk Authentic,” *Washington Times*, 31 May 2001, p. A7. (U)

<sup>16</sup>David Johnston, “Demjanjuk Loses Citizenship Again; Judge Cites Lies,” *New York Times*, 22 February 2002, p. A16. (U)

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Jewish victims of the Holocaust, but survivors behind the Iron Curtain had received none of this money. By the 1990s, most of these men and women were now old and helpless. "The war has almost been consigned to ancient history," said Rabbi Andrew Baker, the director of European affairs for the American Jewish Committee. "So it's somewhat of a shock that you have not only living witnesses but people who have suffered and have yet to receive any kind of compensation."<sup>17</sup> (U)

In early 1996, Sen. Alfonse M. D'Amato of New York took up the issue of Jewish accounts in Switzerland. On 23 February, D'Amato wrote DCI John M. Deutch requesting the CIA's help to "achieve an authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled." D'Amato also sought the Agency's help in locating the "reportedly great amounts of Nazi loot, including gold, art, and other treasures, that might have made their way to Switzerland, and perhaps into Swiss banks."<sup>18</sup> (U)

The allegations of Swiss complicity in hiding confiscated Jewish assets captured the world's imagination. In less than two years, as the *New York Times* wrote in 1997, Europe was "awash in information that nations which considered themselves neutral or even victims of the Nazis actually profited from the Holocaust. They trafficked in gold,

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<sup>17</sup>Rick Atkinson, "Slow to Redress," *Washington Post*, 26 May 1995, pp. A29 and A33. (U)

<sup>18</sup>D'Amato to Deutch, 23 February 1996, ER 96-1509, in CIA History Staff files. (U)

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strategic minerals, art and real estate. Newly opened archives reveal that others knew of the slaughter of Jews and stayed silent.”<sup>19</sup> (U)

A World Jewish Congress report in 1998, for example, estimated that Nazi Germany had seized between \$9 and 14 billion from the 20 different countries or regions that it had occupied between 1933 and 1945.<sup>20</sup> In 1996, Pres. Clinton ordered the Federal government to search its unclassified and classified holdings for information on the role of neutral countries during the war years. The two-year investigation, headed by Under Secretary of Commerce (later Under Secretary of State) Stuart E. Eizenstat, brought together 11 different Federal departments and agencies that reviewed some 15 million documents.<sup>21</sup> (U)

Eizenstat’s investigations resulted in two reports, *US and Allied Efforts to recover and Restore Gold and Other Assets Stolen or Hidden by Germany during World War II, Preliminary Study*, and *US and Allied Wartime and Postwar Relations and Negotiations with Argentina, Portugal, Spain, Sweden, and Turkey on Looted Gold and German External Assets and US Concerns about the Fate of the Wartime Ustasha Treasury*, published by the State Department in May 1997 and June 1998, respectively. The reports marked the pinnacle of official American efforts to understand what happened during the war and afterward. Both studies discussed Project SAFEHAVEN, a wartime interagency

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<sup>19</sup>Tina Rosenberg, “Nazi Entanglements: Judging the Acts of Another Era,” *New York Times*, 3 March 1997, p. A24. (U)

<sup>20</sup>US Congress, House. Committee on International Relations. *Heirless Property Issues of the Holocaust* (Washington, DC: Government Printing Office, 1998), pp. 71-101. (U)

<sup>21</sup>See Stuart E. Eizenstat, *Imperfect Justice: Looted Assets, Slave Labor, and the Unfinished Business of World War II* (New York: Public Affairs, 2003). (U)

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US project to identify Nazi Germany's sources of wealth and to neutralize its commercial and industrial strength. The Office of Strategic Services played a leading role in obtaining intelligence on Germany's activities and providing assessments. Decades later, the CIA's History Staff located primary sources in both OSS and CIA files and provided historical analysis for both Eizenstat reports.<sup>22</sup> (U)

In April 2000, Under Secretary Eizenstat briefed the Senate's Committee on Foreign Relations on American efforts to right the wrongs of the 1940s. His testimony demonstrated the wide-ranging steps that the Federal government undertook during the Clinton administration, resulting in a \$1.25 billion Swiss bank settlement; a \$5.1 billion German agreement to assist those men and women forced to work for German companies during the war; the restitution of stolen and looted art; the creation of the International Commission for Holocaust Era Insurance Claims; the declassification of US records on World War II; the return of religious and communal effects in Eastern Europe; the sponsorship of international efforts to spur Holocaust education; and the negotiations with Austria on slave labor. Eizenstat told the senators why the US Government had taken these unprecedented steps. "Our policy on Holocaust issues," he noted, "serves important US foreign policy interests, as well as helping individual American

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<sup>22</sup>See William Z. Slany, US Department of State, *US and Allied Efforts to Recover and Restore Gold and Other Assets Stolen or Hidden by Germany during World War II, Preliminary Study* (Washington, DC: Office of the Historian, 1997) and William Z. Slany, US Department of State, *US and Allied Wartime and Postwar Relations and Negotiations with Argentina, Portugal, Spain, Sweden, and Turkey on Looted Gold and German External Assets and US Concerns about the Fate of the Wartime Ustasha Treasury* (Washington, DC: Office of the Historian, 1998). See also Donald P. Steury, "Tracking Nazi 'Gold:' The OSS and Project SAFEHAVEN," *Studies in Intelligence* (Summer 2000, No. 9, Unclassified ed.). (U)

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citizens . . . . and helps in the removal of impediments to greater cooperation in Europe.”<sup>23</sup> (U)

### **CIA’s Ongoing Participation in the Investigations (U)**

The Central Intelligence Agency supported the Nazi war criminal investigations in the 1990s, mostly through routine name traces in the files of the Directorate of Operations and the Office of Security. The Office of General Counsel served as the conduit between the Agency and OSI, coordinating OSI reviews of CIA documents. The relationship between the two agencies proceeded smoothly with only minor disruptions. (U)

For the most part, OGC staff paralegals initiated name traces after receiving OSI requests. When the Agency’s components located documents pertaining to an individual, OGC then provided OSI with a summary of the Agency’s information. If OSI wanted to look at the records, the Department of Justice attorneys would then visit the Agency’s Headquarters to examine a sanitized file of the documents pertaining to the individual’s wartime activities. If the case actually proceeded to the litigation stage, OSI would then again meet with the Office of General Counsel to review the Agency’s entire holdings.

This meeting was held to ensure that neither OSI nor CIA encountered any later

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<sup>23</sup>US Congress, Senate. Committee on Foreign Relations. *The Legacies of the Holocaust* (Washington, DC: Government Printing Office, 2000), pp. 13-49. The US Government’s efforts had great impact. For example, the Vatican declared in February 2002 that it would open its secret archives related to Pope Pius XII as well as documents pertaining to the Church’s relationship with Nazi Germany. See Daniel Williams, “Vatican to Open Nazi-Era Archives,” *Washington Post*, 16 February 2002, p. B9, and Melinda Henneberger, “Vatican to Hold Off Releasing Pope Pius XII War Documents,” *New York Times*, 16 February 2002, p. A8. (U)

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difficulties or surprises. Representatives from the two agencies occasionally met to discuss the name trace procedures and improvements for overall operations. These meetings, held in 1989 and 1993, clarified general issues and introduced new personnel.<sup>24</sup> (U)

Between 1980 and 1995, the Central Intelligence Agency had conducted over 1000 name traces for the Office of Special Investigations. The Agency did the bulk of these name traces during the first five years of OSI's existence and it slowed after the first rush. During the 1990s, CIA handled an average of 30 name traces for OSI annually. The Agency's records systems provided a bonanza of information about numerous individuals of interest to OSI because they contained documents from the State Department, Immigration and Naturalization Service, the Displaced Persons Commission, the FBI, the Army, and the Air Force, in addition to CIA's own components. The DO's records systems, in particular, have been of value to the OSI investigations, although the system was not designed as a research or investigative tool. The Agency also retained control of an extensive collection of records from the Office of Strategic Services, the Strategic Services Unit, and the Central Intelligence Group that occasionally assisted OSI investigators. (U)

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<sup>24</sup> telephonic interview by Kevin C. Ruffner, Arlington, VA, 18 October 1996. See also Assistant General Counsel to John K. Russell, OSI, "Name Trace Requests," 23 June 1993, OGC 93-52098, enclosing draft 15 June 1993, "Letter of Understanding—OSI Name Trace Requests," in OGC Nazi War Criminal Working Files. These letters were never sent to OSI because the points of interest were discussed in a meeting between CIA and OSI at CIA Headquarters in August 1993. (S)

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The Office of Special Investigations turned to CIA as one of its first avenues for research to determine if allegations of war crimes had any merit. While the Agency's records do not normally provide conclusive evidence that an individual participated in a war crime, the records can offer extensive information about an individual's background or whereabouts. For a successful prosecution, OSI has to demonstrate that an individual provided false information to the US Government about his wartime activities when immigrating to this country or obtaining citizenship. The Agency's records, because they are readily retrievable and incorporate documents from a variety of sources, often contain valuable clues. In fact, OSI often preferred to examine the CIA's records as opposed to using files from the Immigration and Naturalization Service because the Agency's records were better organized and preserved. Lastly, the Agency's files indicate whether the CIA or another Federal agency, including the Army or the FBI, had an operational interest in a particular individual. Over the years, information of this nature had a bearing on a number of cases. (U)

While most of the name traces done by CIA over the years have located "no record," the CIA has occasionally found its old agents now sought by the Office of Special Investigations. The Agency has always informed OSI when it possessed records on individuals who had worked for CIA, and the two agencies coordinated the presentation of this information in court. For the most part, the Agency prefers not to go to court with OSI unless absolutely necessary and then only to protect Agency "sources and methods." The Agency, to date, has never taken a stand in defense of a former agent

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seeking to avoid prosecution for misleading Federal officials regarding wartime activities. (U)

### The Nazi War Crimes Disclosure Act (U)

Kurt Waldheim remained a *persona non grata* in the United States as the twentieth century came to a close, but his case became an important catalyst for the Nazi War Crimes Disclosure Act.

In May 1994, *New York Times* editorialist A.M. Rosenthal took up his pen to muse about "the Waldheim file." Rosenthal continued to ask about Waldheim and how he had escaped his past for so many years. Rosenthal drew upon Professor Robert Herzstein's research to highlight the gaps in the public's knowledge of the Austrian politician (Waldheim had by this time completed his term as president and retired from all official duties.)<sup>25</sup> Herzstein maintained that Waldheim "was protected by the US Government, provided information in return for that protection, and profited from the Government's willingness to obliterate his wartime service."<sup>26</sup> (U)

Frustrated with the Agency's refusal to declassify its holdings on Waldheim, Rosenthal urged the US Congress to pass legislation "preventing Government agencies

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<sup>25</sup>After his 1988 book, Herzstein continued to research Waldheim's service in World War II and to speculate on his postwar activities. See Robert E. Herzstein, "The Life of Dr. Kurt Waldheim, 1938-1948: Sources in the National Archives," in George O. Kent, ed., *Historians and Archivists: Essays in Modern German History and Archival Policy* (Fairfax: George Mason University, 1991), pp. 287-297, and Herzstein, "The Present State of the Waldheim Affair: Second Thoughts and New Direction," in Bischof and Pelinka, eds., *Austrian Historical Memory and National Identity*, pp. 116-134. (U)

<sup>26</sup>A.M. Rosenthal, "The Waldheim File," *New York Times*, 24 May 1994, p. A19. (U)

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from denying information about World War II war crimes."<sup>27</sup> Congresswoman Carolyn B. Maloney (D NY) quickly took up Rosenthal's and Herzstein's platform in a 12 July 1994 letter to her colleagues on Capitol Hill to push for a "War Crimes Disclosure Act." Forwarding a copy of Rosenthal's editorial, Maloney expressed shock that "the CIA withheld critical information about Kurt Waldheim's Nazi past from the public." She sought a cosponsor to close the loopholes in the Freedom of Information Act that allowed the Agency to withhold information about war criminals.<sup>28</sup> (U)

Maloney introduced her bill on 12 August 1994, and it was referred to three committees in the House of Representatives, but she lacked a companion bill in the Senate. The bill, cosponsored by six other congressmen, would amend the Freedom of Information Act and eliminate the Agency's ability to claim any FOIA exemptions for Nazi war criminal information. The bill called for a minimum of exceptions to full disclosure of the identities of war criminals in the United States.<sup>29</sup> (U)

Within a week, A.M. Rosenthal informed the readers of the *New York Times* that Rep. Maloney had introduced a bill, drawing upon Rosenthal's coverage of Herzstein's

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<sup>27</sup>Ibid. Rosenthal's editorial evoked an immediate reaction in the CIA and a search for information pertaining to the Austrian. See [redacted] Office of the Director, Executive Secretariat, to SA/DDO, "Commentary on Newspaper," 25 May 1994, (S), and [redacted] Chief, External Inquiries Branch, IMS, to [redacted] Office of the Director, Executive Secretariat, "Your Request dated 25 May 1994," 26 May 1994, DOR-03886, (S), both in Waldheim, File 201-0896881, DO Records. (S)

<sup>28</sup>Carolyn B. Maloney, letter to colleagues, 12 July 1994, copy of the letter in CIA History Staff files. (U)

<sup>29</sup>For further details on the impact of the act and its wording, see [redacted] Office of Congressional Affairs, to Director of Information Management, Information and Privacy Coordinator, Director of the Center for the Study of Intelligence, and Litigation Division, Office of General Counsel, "War Crimes Disclosure Act (H.R. 4955)," 23 August 1994, OCA 94-2161, (no classification listed), copy in CIA History Staff files. (U)

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research on Waldheim. "It is an overdue piece of legislation," Rosenthal wrote, "important to justice and history. The key to the Waldheim file is right there on the table, waiting for Congress to pick it up and use it."<sup>30</sup> (U)

Ms. Maloney's efforts culminated in success when President Bill Clinton signed the Nazi War Crimes Disclosure Act, Public Law 105-246, on 8 October 1998.<sup>31</sup> Earlier that summer, the House ratified the Senate bill calling for the disclosure of records related to Nazi war crimes and criminals. In addition, the Senate language, adopted into law, called for an interagency working group, or IWG, to facilitate the review and release of government records. The new law required all Federal agencies to

locate bodies of records that can reasonably be believed to contain information that: (1) pertains to any individuals who the US Government has grounds to believe ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the period of Nazi rule in Germany (1933-45); or (2) involves assets taken, whether or not under the color of law, during that period from persons persecuted by the Nazi regime or governments associated with it. (U)

The Implementation Directive issued by the White House furthermore stated "agencies should take an expansive view of the act in making this survey and in the subsequent identification of records and declassification review. Special efforts should

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<sup>30</sup>A.M. Rosenthal, "The Waldheim Bill," *New York Times*, 19 August 1994, p. A27. (U)

<sup>31</sup>Public Law 105-246, "An Act to Amend Section 522 of Title 5, United States Code, and the National Security Act of 1947 to Require Disclosure under the Freedom of Information Act regarding Certain Persons, Disclose Nazi War Criminal Records without Impairing Any Investigation or Prosecution Conducted by the Department of Justice or Certain Intelligence Matters, and for Other Purposes." Samuel R. Berger, Assistant to the President for National Security Affairs, to Secretary of State et al, "Implementation of the Nazi War Crimes Disclosure Act," 22 February 1999. Copies of both documents are located in CIA History Staff files. In 2000, Congress amended the Nazi War Crimes Disclosure Act and its implementing directive to DCI records pertaining to the Imperial Japanese Government between 1931 and 1945. (U)

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be made to locate records that may shed light on US government knowledge about, policies toward, and treatment of Nazi war criminals, especially during the Cold War years.”<sup>32</sup> (U)

In January 1999, President Clinton appointed the three nongovernmental members of the IWG; Thomas H. Baer, a lawyer and motion picture and television producer; Richard Ben-Veniste, a former assistant US attorney and Watergate prosecutor; and most importantly, Elizabeth Holtzman, who had struggled for 25 years to get the Federal government to open its records on Nazi war criminals.<sup>33</sup> (U)

CIA's records on Nazi war criminals have now been declassified pursuant to the Nazi War Crimes Disclosure Act, transferred to the National Archives, and made available to the public. The public can now judge for itself, based on documentary evidence, whether the allegations of self-proclaimed “Nazi hunters” like John Loftus are correct. The documents at the Archives will be the source of much discourse in the historical community for the foreseeable future, but they show that allegations of CIA protection of Nazi war criminals are baseless. In fact, CIA remains one of the Office of ~~Special Investigation~~ Special Investigation's most important sources of information. (U)

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<sup>32</sup>Office of Information Management, Employee Bulletin, “Implementation of the Nazi War Crimes Disclosure Act,” 31 March 1999, EB No. 0002-99, in DCI/HS files. (S)

<sup>33</sup>The White House, Office of the Press Secretary, “President Clinton Names Thomas Baer, Elizabeth Holtzman, and Richard Ben-Veniste as Members of the Nazi War Crimes Records Interagency Working Group,” 11 January 1999. Copy located in CIA History Staff file. (U)

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