

ตัวอย่างคำฟ้องของพนักงานอัยการในประเทศเยอรมัน

THE TRIAL OF DR. BRACH<sup>1</sup>

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The documents are presented in chronological sequence: Anklage, trial, judgment. However, readers may find it more convenient to begin with Mrs. Bedford's account of the trial (infra page 13) before turning to the legal documents and related notes and questions. Many of the questions posed in regard to the Brach case raise issues that are discussed in later chapters of the book.

A. THE FORMAL CRIMINAL CHARGE (ANKLAGE)

Karlsruhe  
Prosecutor's Office  
II Ks 1/59

Karlsruhe  
15 June 1959  
Criminal case against Dr.  
Ulrich Brach of [born in]  
Frankfurt/Main for wound-  
ing with intent to do griev-  
ous bodily harm, resulting  
in death

District Court (*Landgericht*)

Chamber I of the Section for Criminal Matters in Karlsruhe.

[1] I submit herewith the file and move the court to convene the trial procedure (*Hauptverfahren*) in the division hearing cases of most serious crime (*Schwergericht*).

Charge (*Anklage*)

[2] against Dr. Ulrich Brach, born on 16 April 1918 in Frankfurt Main, now residing at 3 von Beckstrasse, Karlsruhe; married; military physician and specialist in surgery; provisionally arrested on 14 February 1959 and released on 15 February 1959.

Accusation (*Beschuldigung*)

[3] On 14 February 1959 at about 2:00 PM at the Deer Path in the palace garden in Karlsruhe Dr. Brach, after having fired two warning shots, fired a third shot at Master Bookbinder Raimund Suk, whom he had previously apprehended because Suk had molested his daughter Veronika Brach and her school classmate Hilde Weber by displaying his genitals. Dr. Brach meant to wound Suk in the foot because Suk was attempting to escape over the palace garden wall. Through his own carelessness, however, Dr. Brach shot Suk in the area of the stomach, from whence the bullet found its way to the heart and killed him. Suk's death was caused directly by the gunshot wound.

[4] Dr. Brach thereby willfully endangered the health of another with a weapon and in so doing he negligently caused the death of the injured man.

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<sup>1</sup>John H.Langbein, Comparative Criminal Procedure Germany,

( Minnesota:West Publishing Co.,1977)

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[5] Crime, punishable under StGB [*Strafgesetzbuch*, Code of Criminal Law] §§ 223, 223a, 226, 228.<sup>1</sup>

[6] *Evidence (Beweismittel)*

- A. *Records:*
1. Criminal record: Dr. Brach AS. 7,
  2. Criminal record: Suk AS. 79.
- B. *Files:*
1. Personal file No. 18162 on Dr. Ulrich Brach,
  2. Previous crime file No. 5 Cs 21/54 on Raimund Suk, re: disturbance of the peace,
  3. Investigative proceeding (*Ermittlungsverfahren*) No. 3a Js 2352/50 against Raimund Suk, re: disturbance of the peace,
  4. Investigative proceeding No. 3 Js 36/59 in the name of Veronika Brach, re: disturbance of the peace.
- C. Sketches and photographs of the scene in the enclosed folder.
- D. *Witnesses:*
1. Hilde Weber, schoolgirl, 16 Eulerweg, Karlsruhe,
  2. Veronika Brach, schoolgirl, 3 von Beckstrasse, Karlsruhe,
  3. Jürgen Schmitt, 11 Reinhold-Frankstrasse, Karlsruhe,
  4. Karl-Heinz Dahn, 9 Kronenstrasse, Karlsruhe,
  5. Christa Gerber, 1 Lehmannstrasse, Karlsruhe,
  6. Otto Wagner, 6 Scheffelstrasse, Neureut,
  7. Thea Vogt, 5 Friedenstrasse, Karlsruhe,
  8. Doris Linz, 67 Damaschkestrasse, Karlsruhe.
- E. *Expert:* Professor Dr. Mueller, Institute for Forensic Medicine, Heidelberg.
- F. *Exhibits:* One Walter pistol and shells  
Gun permit issued to Dr. Brach  
Clothing of the deceased, Suk, with an inventory thereof.

*Result of the Investigation*  
(*Ermittlungsergebnis*)

## A.

[7] Military Physician Dr. Brach has admitted that he fired two warning shots at Suk, whom he had detained because of the

<sup>1</sup> These sections are translated infra pages 54-55, notes 9-12.



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morals offense against his daughter and her classmate, when Suk tried to flee from him in the palace garden. Dr. Brach further admitted that he then tried to shoot Suk in the leg in order to stop his escape. Unfortunately, however, he struck Suk's body in such a way that the bullet penetrated the heart and death resulted.

## B.

[8] Dr. Brach was born the son of Harry Brach, merchant, and his wife Katharina (née Wagner). He has one brother, two and a half years younger, who lives in Offenbach/Main. Dr. Brach grew up in his parents' home, went to elementary school and, from 1928 onwards, to high school (*Gymnasium*) in Frankfurt/Main. For a time he attended boarding school in Frankfurt/Oder, returning to high school in Frankfurt/Main, where he took his university entrance examinations in 1938. After fulfilling his state labor obligation he was called into the air force in the spring of 1939 for military training. In the spring of 1941 he was released from military duties in order to take up the study of medicine. He pursued his studies at the universities of Munich, Strasbourg and Tübingen.

From March 1945 to the fall of 1945 the accused was a prisoner of war in France. In February 1946 he was able to resume his studies in Frankfurt/Main, where in May 1947 he took the state qualifying examinations and in May 1949 was certified as a medical doctor. In December 1947 he assumed a medical appointment at the Frankfurt/Main municipal hospital. After ten months he transferred to the University gynecological clinic of Frankfurt/Main and in March 1949 to the municipal medical clinic. Finally, he served at the University general clinic and at the Frankfurt/Main pathology institute until he was able to find his first salaried position at the miners' clinic in Bochum. In March 1954 he became first assistant in the surgical division of the Backnang district hospital.

On 1 August 1957 Dr. Brach was commissioned as a military physician in the air force and assigned to Karlsruhe. He found an apartment here in the spring of 1958 and kept it after September 1958 when he was transferred to Furstenfeldbruck.

Dr. Brach married on 21 December 1943. From this marriage came two sons and one daughter, ages 12, 13 and 14. Another daughter was born on March 6, 1959.

[9] The offense with which the accused, Dr. Brach, is charged occurred as follows:

His 12-year-old daughter Veronika attended the Hebel School situated at the [edge of the] Hardt Forest. On the day in question she and a classmate left school around noon on a bicycle, intending to cross through the Hardt Forest to their homes. On their way the girls were molested by an older man who openly displayed his genitals to the children. The children changed direction, but the

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man managed to regain a position where he could again show them his genitals. Both girls hastened away to the Brach apartment, where Brach's daughter reported the incident. Dr. Brach, who at the time was stationed at an air force base in the Eifel region [west of the Rhine towards the border with Luxembourg and Belgium], and was at home for the weekend, immediately prepared to go out. Wearing civilian clothing, he pocketed his pistol. He instructed his daughter to take the bicycle back out to the place where she had been molested by this man and keep a lookout for him. He took his daughter's classmate along with him in his car and drove to Moltkestrasse, where he drove the length of the Hardt Forest. In the vicinity of the orphanage his passenger recognized the man who had molested the girls. Dr. Brach detained him, but was unable to persuade him to go to the police station located near the mint, although he explained to Suk that he was in custody. Suk cast more suspicion upon himself when he admitted to having been once convicted on the testimony of a girl and being unwilling to risk the same fate again. Despite the arguments of the doctor, Suk set out through the palace garden. At the corner of Worthstrasse and Moltkestrasse the doctor once again failed to steer Suk onto Worthstrasse. Upon entering the palace garden at the extension of Moltkestrasse the doctor was able to call for help upon a young man who happened to be there. He briefly explained the matter to the young man but had no more success in inducing Suk to go along to the police. Indeed, after the young man joined them, the doctor once briefly showed his pistol to Suk by way of a threat. After traversing the palace garden Suk feigned a need to urinate. Instead, he suddenly swung up into a convenient tree in order to climb over the wall nearby. He was stopped by the young man. It was not possible for the doctor to reach them immediately as a bush was in the way. He took his pistol and fired two warning shots up into the air. As a result, the young man let go. Suk tried, nevertheless, to climb over the wall again. Moved to action by this attempt, Dr. Brach saw no possibility of stopping Suk except by seriously wounding him with the gun. He meant to wound Suk in the leg and for this purpose moved the gun to a right angle with the ground. As it happened he fired too soon. Suk was struck in the stomach area from whence the bullet penetrated to and through the heart. The doctor immediately provided medical assistance and tried to save him. He also sent the young man off at once to notify the police. It was then established that the deceased was the aforementioned Raimund Suk, master bookbinder, who was already known to the Karlsruhe police as an exhibitionist.

Signed: Dr. Eglin

Chief Prosecutor  
(Oberstaatsanwalt)