

4 February 1953

MEMORANDUM FOR: Deputy Director (Plans)

SUBJECT: Arrest of the Five (5) Leading Members of the  
Bund Deutscher Jugend and BDJ Apparat

INTRODUCTION

The EE telecon communication with the field on this subject dated 31 January 1953 has been made available to this office. As reported by the telecon five leading members of the CIA-sponsored Bund Deutscher Jugend, Paul LUETH, Ehrhardt PETERS, Norbert HAMMACHER, Heinz SHIPPLACK, and Hermann BISCHOFF have been arraigned by German officials of Hesse for certain criminal acts in connection with activities of the Bund Deutscher Jugend. The nature of the charges are:

- (a) To have furthered the work of an organization whose purpose and activities are directed against the federal republic;
- (b) To have been members of an organization whose aims and activity are to commit criminal acts;
- (c) To have belonged to a group which plans crimes against life or consider such crimes as means for attaining other aims.

These charges are completely false and without foundation. They are being preferred by the SPD Hesse for ZINN's personal aggrandizement and Hesse SPD propaganda purposes to the detriment of the U.S. occupation authorities and this Government. This represents the next step in the "blackmail" activities of SPD Hesse, with every possibility of other acts to come.

Pre-trial examination of Ehrhardt PETERS was scheduled to begin 2 February 1953.

PRESENT COURSE OF ACTION

The course of action proposed by the field, evidently approved by EE headquarters, permits testimony to be taken from PETERS at the pre-trial hearing in the Hesse court. PETERS would be advised to testify that he worked for the Americans, specifically for [ ] [ ], that

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**SECRET**  
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- 2 -

instructions were given to the organization by [ ] and that on [ ]'s instructions members of the organization did compile some information on political personalities although this activity might have been construed to be beyond the strictly para-military mission of the Apparat. The field states that "This line of testimony presupposes that we are willing to throw [ ] to the wolves by stating to the Federal Prosecutor that he was exceeding his authority by instructing the Apparat to engage in any political activity". The field also advises that the defendants should not refuse to testify on any grounds and that they should be prepared frankly to answer such questions as will be put to them by the investigating judge.

At the conclusion of this pre-trial testimony the field states that the Federal authorities will intercede and remove the case to the Federal level. At this point a statement is to be furnished the Federal Prosecutor by a responsible American authority (i.e. General TRUSCOTT) to the effect that [ ] had directed the activities of the Apparat but in so doing had exceeded his authority. Presumably the statement would not be made public, but, in removing the case from Hesse, ZINN would be told that the Americans were issuing a statement in connection with the case. A general reference would also be made in the final report on the matter which the government has to make to the Bundestag. After the Federal Prosecutor receives this statement he will then, presumably, nolle prosequi the case.

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**FLAWS IN PRESENT COURSE OF ACTION**

This office believes that the action proposed is dangerous, detrimental to the interest of Agency operations in Germany, and will not accomplish the desired results. The following criticisms are made with respect to the present course of action:

(a) The SPD (Hesse) is charging with impunity that the U.S. occupation forces have organized and developed a German group for purposes (a) inimical to the federal republic, (b) aimed at the commission of criminal acts and (c) to plan crimes against life. This act in itself is a serious charge against this Government and its integrity, yet, this action has gone unchallenged by this Government. Propaganda emanating from previous acts of this nature have seriously reflected on CIA and this Government. Unless we take positive action these attacks will continue. If the Germans continued this course of action, they could charge any member of the EDJ as a member of an organization inimical to German interests.

(b) As leaders of a U.S.-sponsored organization acting under the direction of U.S. officials these individuals should not now be subject to arraignment by German officials for criminal acts.

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**SECRET**  
Security Information

- 3 -

(c) Failure to take firm action to protect these individuals will have undesirable repercussions among indigenous personnel of other Agency-sponsored organizations.

(d) Advising the defendants to answer all questions frankly and to disclose their activities under [ ]'s direction unnecessarily divulges that much more information about BDJ, Apparat activities and other activities.

(e) Federal intervention in the case is dangerous in view of the SPD charges that the BDJ is a government-sponsored anti-SPD organization as well as a U.S.-sponsored organization. If the Hessian pre-trial examination concludes that there is probable cause to try the defendants the Federal Government could not then afford politically to nolle prosequi the case. If there is evidence of a BDJ purpose to stockpile weapons, conviction would follow. Removal of the case from German jurisdiction at that time would seriously damage the prestige of the Federal Republic.

(f) [ ] states that although concurrent jurisdiction exists in the Federal Republic he is not aware of the means by which the Federal Prosecutor may remove the case from Hesse jurisdiction. The field assures that this can be done but does not cite the law. This matter should at least be clarified.

(g) The proposed statement from General TRUSCOTT concerns only [ ] and the Apparat and leaves BDJ members open to prosecution for membership in an organization whose alleged purpose and activity are directed against the Federal Republic.

(h) Although ZINN has promised that there would be no publicity of the pre-trial hearings he has made similar promises in the past which have proved to be empty.

(i) The proposed statement from General TRUSCOTT that [ ] exceeded his authority by engaging in political intelligence activities is (1) not true and (2) suggests that this intelligence agency did not exercise proper control and does not know, over a period of a year, what activities its agents are carrying on.

(j) REEBER's statement that [ ] may be "thrown to the wolves" so long as the U.S. is not implicated in the illegal acts is not realistic. In the popular view [ ]'s activities would necessarily involve the U.S.

(k) Disposition of the case by nol pros leaves the defendants subject to prosecution at a later date.

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- 4 -

(1) Failure by the Federal Republic to prosecute or to make public the American statement on the case would provide ZINN (SPD-Hesse) additional ammunition for criticizing the Federal Government.

(m) General TRUSCOTT would likely be subject to attack by the SPD, with its attendant publicity, for issuing the statement proposed by the field.

RECOMMENDED ACTION

Article 7 of Law 13 promulgated by the High Commission of Germany states that:

"1. The Occupation Authorities may, either generally or in specific cases, withdraw from a German Court, any proceeding directly affecting any of the persons or matters within the purview of paragraph 2 of the Occupation Statute.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

"5. Every judgment or decision of an Occupation Court in any case withdrawn from a German Court shall be binding on all German Courts and Authorities and shall not be subject to review by German Courts."

This office firmly believes that withdrawal of the case from the jurisdiction of the German courts under Law 13 is the most satisfactory solution to the BDJ affair. The law should be evoked simultaneously with a strong public statement that Western security is threatened by a continuation of propaganda against this anti-communist group and that continued attacks of this nature will not be tolerated. This action may admittedly subject the U.S. to criticism by the SPD but this criticism may be nullified by a strong U.S. propaganda blast. On the other hand the present course of action proposed by the field provides ZINN with more material for sensational exposes as the pre-trial hearings proceed.

Failure to insist on U.S. rights derived from the Occupation Statute justifies the SPD view that the proposed contractual agreement with Germany is no improvement on the benefits which the Germans enjoy without the contract.

This case provides an appropriate opportunity to impose a policy of firmness with respect to our relations with German officials.

This office recommends, therefore, the following steps:

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- 5 -

(a) That the Agency discontinue disclosing this operation to German officials, agencies and the general public.

(b) That Agency representatives not sign any statements which in effect would admit U.S.-sponsorship of illegal activities as charged by the Germans.

(c) That the Agency insist with State and so instruct General TRUSCOTT on withdrawing this current EDJ case from the jurisdiction of German courts by virtue of our rights under Law 13, promulgated by the Allied High Commission for Germany.

[ ]  
Chief, Inspection and Review

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*Donnan - P&B*  
*53 Feb 53*

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