

No Country for Old Fighters:  
Postwar Germany and the Origins of the Ulm *Einsatzkommando* Trial

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## Abstract

Patrick Tobin: No Country for Old Fighters:  
Postwar Germany and the Origins of the Ulm *Einsatzkommando* Trial  
(Under the direction of Christopher Browning)

This thesis traces the origins of the 1958 Ulm *Einsatzkommando* Trial in West Germany through the postwar story of Bernhard Fischer-Schweder. As a Nazi officer involved in an *Einsatzkommando* unit in 1941, Fischer-Schweder had taken part in the murder of several hundred Jewish civilians in Lithuania. By the 1950s these crimes came to light. An investigation into him triggered subsequent arrests, and by 1958, Fischer-Schweder and nine others found themselves at the center of the largest war crimes trial since Nuremberg. By reconstructing this period through the Fischer-Schweder story, this thesis argues that by the mid-1950s, sectors of West German society were increasingly critical of a perceived apathy towards prosecuting Nazi criminals. These pockets of progress served as a point of transition in West Germany's relationship with the Nazi past, a transition which made the Ulm trial possible and ushered in an era of war crimes investigations in the 1960s.

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## Chapter 1

### The Camp Director of Ulm

June 26, 1954, was to prove a defining day in the life of Bernhard Fischer-Schweder. Since the beginning of the year, the fifty-year-old directed a refugee camp near the southern German city of Ulm. Upon assuming responsibility for the 3,800 camp inhabitants, he initiated wide-ranging reforms to impose order, improve health conditions, and increase safety.<sup>1</sup> His immediate successes earned him widespread respect. After only a month, Fischer-Schweder was briefly but strongly considered by the regional government to take over leadership of the larger camp near Stuttgart.<sup>2</sup> Even the local press noted the “fresh air” he brought to the Ulm camp. Fischer-Schweder’s “purposeful and energetic” planning had systematically raised the quality of life in the camp.<sup>3</sup> But all of this was for him mere prologue to the crowning achievement of his tenure to this point: the opening this evening of the new camp theater.

The theater put some of Fischer-Schweder’s multiple skills on center stage. The four-hundred seat complex was the result of his pragmatism and innovation. Working with local construction firms in Ulm, Fischer-Schweder authorized the total renovation of a large horse-stable to become the modern center of cultural life in the camp.<sup>4</sup> The theater boasted a

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<sup>1</sup> Regierungspräsidium Nordwürttemberg to Ministerium für Vertriebene, Flüchtlinge und Kriegsgeschädigte (10 December 1953), EL20/1 II, Bd. 1, Staatsarchiv Ludwigsburg (hereafter, SL).

<sup>2</sup> Regierungspräsidium Nordwürttemberg to Abteilung I – Kanzleidirektion (30 January 1954), EL20/1 II, Bd. 1, SL.

<sup>3</sup> “Frischer Wind auf der Wilhelmsburg”, *Schwäbische Donau-Zeitung*, 21 May 1954.

<sup>4</sup> “‘Burgtheater’ wird am Samstag eröffnet”, *Schwäbische Donau-Zeitung*, 25 June 1954.

seventy-square meter stage and rows of plain wooden benches. At half past seven this evening, it would open its doors to the inhabitants of the camp and members of the press. As a display of Fischer-Schweder's vision and sensibility, the theater represented his most significant contribution to camp life to date. As such, Fischer-Schweder had camp personnel on high alert through the day to ensure that all went accordingly that evening.

One staff member, a camp guard named Pallmer, personally respected Fischer-Schweder and his contributions to the camp. He likely took extra care that day during his patrol of the area surrounding the camp. At two o'clock that afternoon, as he rounded the corner towards the eastern entrance to the camp and looked out towards the parking lot, Pallmer noticed a "tall, lanky, and somewhat pale" man standing outside an automobile, evidently waiting for someone.<sup>5</sup> Though the man was not a camp inhabitant, his face was familiar. Loitering outside the camp was unusual and, on this day, unacceptable.

Pallmer approached, and with little baiting, the man with "a well-worn face" began to make pronouncements to Pallmer, speaking derisively about camp director Fischer-Schweder. Pallmer "deliberately said nothing" but "listened attentively" so as not to discourage the man and hear his full piece. He stated that during Fischer-Schweder's highly-regarded service in the police force of Breslau, Fischer-Schweder was a member of the SS.<sup>6</sup> He threatened that it "would not be long" before Fischer-Schweder was fired from his position.<sup>7</sup> The conversation ended when an unknown woman approached the accuser, and the two left together.

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<sup>5</sup> Report by Pallmer (27 June 1954), EL48/2 I, Bd. 3125, SL.

<sup>6</sup> Breslau is present day Wrocław, Poland.

<sup>7</sup> Report by Pallmer (27 June 1954), EL48/2 I, Bd. 3125, SL.

Pallmer quickly submitted a report of the incident. “I consider it necessary for me to inform you of this, Mr. Fischer,” he wrote, “in order to protect you from such denunciations.” He added, “I am extremely grieved that there are people who would want to belittle your successes in this camp, where you really have given so much effort and done so much.”<sup>8</sup>

Such loyalty protected Fischer-Schweder for a time, but was to prove insufficient in the coming months. He had been too important before the war, too violent during it, and too prominent afterwards in his new camp position. June 26, 1954, did mark a significant day for Bernhard Fischer-Schweder by showing him that he could not escape his Nazi past. Far from announcing his arrival and heralding a successful reemergence as a civil servant, the day signaled the high point of his postwar career and the beginning of his downfall.

This paper aims first to tell the story of this downfall: of how a man played a dangerous game after the war by concealing swaths of his past, while using other elements for personal gain, and how the rules of this game began to change around him. It was a game that Fischer-Schweder would lose, and when he lost, he did so publicly and brought down nine others with him in what became the so-called Ulm *Einsatzkommando* trial of 1958, but what remains officially known as the “case against Fischer-Schweder and nine others.” These ten former Nazi officers of *Einsatzkommando* Tilsit found themselves convicted of carrying out mass executions of several thousand Jewish men, women, and children in the border regions of Germany-Lithuania during the summer of 1941. The major aim then is to narrate this route that led Fischer-Schweder to his camp director position and ultimately to imprisonment.

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<sup>8</sup> Report by Pallmer (30 July 1954), EL48/2 I, Bd. 3125, SL. Pallmer kept to his promise to look into the matter, and by the end of July he had succeeded in identifying the man with whom he spoke, a citizen of Ulm, Kurt Hoyer, who had been acquaintances with camp resident Alois Meier.

The second goal is to use Fischer-Schweder's story to explain the origins and development of the Ulm trial. This trial emerged prominently and surprisingly in West Germany during the 1950s. The largest postwar trial since the Nuremberg tribunal, the Ulm case represented a watershed moment in German trial history, both providing new approaches for the investigation and prosecution of criminals from the Third Reich and keying institutional changes that greatly expanded the number of such trials over the coming decades. Beyond this legal context, the trial was also integral to a wider cultural shift that occurred towards the end of the 1950s in West Germany. This movement away from a victimization narrative of the Nazi era that had largely silenced discussion of German crimes towards a more nuanced understanding of the past brought attention to crimes of the Holocaust and international suffering at the hands of Nazi Germany. Fischer-Schweder's life therefore remains central to understanding how and why the Ulm trial emerged when and where it did.

Third and finally, this paper intends to reflect on wider trends and shifts within postwar West German society through Fischer-Schweder's story of deception and downfall. His path was unique in its whole, but in its particulars he faced the same choices, problems, and opportunities as wide swaths of society after 1945. The circuitous route of his career therefore acts as a prism onto much larger issues in West Germany. By studying Fischer-Schweder's path to downfall, avenues of insight are opened onto the nature of Nazi war crimes, the shortcomings of denazification, the Cold War and creation of a West German state, the revival of a functioning state bureaucracy, the politics of reintegration, and the ongoing attempts across cultural, political, and organizational lines to come to terms with the Nazi past. In the chaotic aftermath of World War II, West Germany was a wilderness of

demographic shifts, privation, and ruin. Anyone could be who he claimed he was, and thousands of former Nazis found it possible to escape justice and exist on the frontiers of reintegration. The story of Fischer-Schweder and the Ulm trial is therefore the story of how the frontiers of this West Germany were closed.

### **The Ex-Nazi Vacuum Salesman**

Physically, emotionally, and professionally, the immediate postwar years represented a constant struggle for Fischer-Schweder. At the close of the war, he lay in a military hospital in Bavaria for four months, recovering from wounds sustained in fighting during the closing days of war in Austria.<sup>9</sup> The shrapnel of a grenade had torn into his arms, legs, chest and throat. Though he was fortunate to avoid serious organ damage, the wounds resulted in visible scarring and permanently reduced mobility.<sup>10</sup>

While the scars became a constant reminder of wartime experience, Fischer-Schweder quickly erased other significant markings of his life before 1945, embracing his own version of the *Stunde Null*, or zero hour. He distanced himself at once from his wife Charlotte, to whom he had been married since 1935. He refused to notify her of his postwar location, and she resorted to her own detective work in tracking him down using the postmarks of his letters.<sup>11</sup> Though briefly reunited, the two divorced in 1949. Officially, they cited the reason as “mutual difficulties,” but Fischer-Schweder later suggested the cause

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<sup>9</sup> Statement by Charlotte Fischer, nee Voigt (23 October 1954), EL20/1 II, Bd. 1, SL; Personalbogen, EL20/1 II, Bd. 1, SL.

<sup>10</sup> Amtsärztliches Zeugnis (1 February 1954), EL20/1 II, Bd. 1, SL.

<sup>11</sup> Statement by Charlotte Fischer, nee Voigt (23 October 1954), EL20/1 II, Bd. 1, SL.

was “the ongoing adultery of my wife, which had begun when I was a soldier on the front.”<sup>12</sup> Fischer-Schweder remarried another woman, Irmgard Kirchoff, within several months of the divorce, and the couple had their first child, Christian, in early 1951.<sup>13</sup>

Of immediate priority for Fischer-Schweder following the war was avoiding extended time in a denazification camp. After recovering from his wounds, Fischer-Schweder was automatically interned in an American prisoner of war camp in Bavaria. The massive organizational efforts that denazification required of the Allies meant that individuals were largely trusted to answer forms honestly; little bureaucratic slack existed for investigating and exposing deceit.<sup>14</sup> To conceal his participation in the Third Reich, Fischer-Schweder supplied his name as Bernd Fischer and his birth date as February 13, 1904, instead of January 12, 1904. As for his wartime activities, he listed his background in the civil service and stated that in 1941 he became Police Director in the recently reacquired city of Memel, near the then-German border with Lithuania, a post he held for much of the war.<sup>15</sup> This version of his past and the absence of a Nazi file on anyone named Bernd Fischer born on that date resulted in a relatively pain-free denazification process. On March 5, 1946, the

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<sup>12</sup> Kriminalpolizei Schweinfurt to Landespolizeidirektion Nordwürttemberg-Kriminalhauptstelle (1 October 1954), EL48/2, Bd. 3125, SL; Statement by Bernhard Fischer-Schweder (2 May 1955), EL 322 II, Bd.1, SL.

<sup>13</sup> Personalbogen (30 November 1953), EL20/1 II, Bd. 1, SL; and Melde- und Personalbogen I (1 December 1953), EL20/1 II, Bd. 1, SL.

<sup>14</sup> For a succinct summary of the aims and problems with denazification, see: Konrad H. Jarausch, *After Hitler: Recivilizing Germans, 1945-1995*, trans. by Brandon Hunziker (New York: Oxford University Press, 2006), 48-55.

<sup>15</sup> Memel is present day Klaipėda, Lithuania. Memel had historically been a Prussian city, until the city and surrounding region were taken from Germany and given to Lithuania following World War I. Under an ultimatum by Hitler, Lithuania gave the region back to Germany in 1939. See, Gerhard L. Weinberg, *A World at Arms: A Global History of World War II* (Cambridge: Cambridge University Press, 1994), 14, 31-32.

military tribunal in Bad Neustadt, a town not far from Ulm, declared him to be “unaffected” by Nazism.<sup>16</sup> He rejoined society.

Professionally, Fischer-Schweder found himself in a difficult position. As a West German who had worked in the civil service in what was now Poland, Fischer-Schweder could neither return physically to his old post nor find a similar position in the West. The Allies had made a priority of purging the German civil service, and Fischer-Schweder was therefore cut adrift.<sup>17</sup> At the same time, his strategic change in name and birth date successfully allowed him to avoid extended time in a denazification camp, but it also prevented him from trumpeting his prewar career in the police service. By concealing his birth name and date, Fischer-Schweder forced himself to start his career over after the war. Thus, Fischer-Schweder found himself in a double bind: unable to rejoin the civil service (because of the Allies) and unable to capitalize off of his earlier career (because of his falsified information).

As a result, Fischer-Schweder aimed low. For the initial postwar years, Bernhard Fischer-Schweder lived and worked as Bernd Fischer. To maintain a low profile and avoid potential inquiries into his past, he worked a series of odd jobs after that war. He began first as a clerk in Bad Neustadt, until he went into business as an independent salesman in 1948.<sup>18</sup> His foray into self-employment ended poorly, and by January 1952, Fischer-Schweder began work as a vacuum salesman for a company near Stuttgart.<sup>19</sup> Though he no doubt found sales less compelling than police work, the position was stable and out of the public eye.

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<sup>16</sup> Spruchkammer Bad Neustadt to Bernd Fischer (9 April 1947), EL20/1 II, Bd. 1, SL.

<sup>17</sup> Jaraus, *After Hitler*, 49.

<sup>18</sup> Firma Gerhard A. Koch (undated), EL20/1, Bd. 1, SL

<sup>19</sup> Egon Panther (10 December 1953), EL20/1, Bd.1, SL.

By the beginning of the 1950s, Fischer-Schweder's metamorphosis was complete. He had changed his name and birth date. Beyond his scarred physical appearance, the man had left his wife of previous years, had resettled in the opposite corner of Germany from his previous homes, and had transitioned from a civil servant of prominence to a door-to-door vacuum salesman. He was able to start over in a new city with a new career, new name, and new family. In his attempts to avoid denazification and postwar justice, Fischer-Schweder had created himself anew. But at the very height of his reintegration, when it seemed as though his past had been laid to rest, Fischer-Schweder decided to risk it all.

### **Hidden in Plain Sight**

For a number of West Germans, 1951 was a year of opportunity. In that year, the Federal Republic of Germany passed an amendment to the Basic Law constitution – Article 131.<sup>20</sup> This amendment applied nominally to those holding civil service positions on May 8, 1945 – the day of Allied victory over Germany – and who were purged from the ranks by the Allies. In principle this allowed a number of those removed from civil service in 1945 to reapply or receive pensions, but in practice thousands of those formerly associated with the Third Reich could now apply for work in the public sector, ushering in a new era of reintegration under Adenauer. New careers opened for many, and opportunists took advantage. Perhaps feeling that the ghosts of the past had been laid to rest, Bernhard Fischer-Schweder joined the fray toward reintegration.

First, he faced a problem of his own creation: the name and birth date he had been falsely using on papers since 1945. According to a later statement, Fischer-Schweder

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<sup>20</sup> For a discussion of Article 131 from inception to implementation, see Norbert Frei, *Adenauer's Germany: The Politics of Amnesty and Integration*, trans. by Joel Golb (New York: Columbia University Press, 2002), 41-66.

brought the “trivial change” in his birth date to the attention of the local attorney in 1953, once denazification no longer threatened, though Fischer-Schweder seems not to have fully switched out of his postwar false identity. Two key documents highlight the issue. On November 30, 1953, he listed his name on an application as “Bernhard Fischer” and his birth date as “13 February 1904” – still using his postwar falsified information.<sup>21</sup> However, on the very next day, December 1, 1953, he filled out another application, and on this, he gave as his name “Bernhard Fischer-Schweder” and as his date of birth “12 January 1904.”<sup>22</sup> A clerical error this was not. Unless he made the decision to change his personal information over during the course of that one night, Fischer-Schweder either began to use certain information selectively, depending on the application and audience, or had forgotten which identity to use.

The reemergence of Fischer-Schweder into public life in Western Germany began with his second application, dated December 1, 1953. This was the application for reinstatement to the civil service in accordance with Article 131. On it, he listed his full name and actual birth date. He stated that he was born in Berlin in the borough of Spandau and at the age of twenty received a vocational degree as a technician. His resume argued that he had been a civil servant his entire life, beginning in 1932 when he began his entry into the police force. Fischer-Schweder steadily worked his way up the ranks of the detective division, emerging as superintendent in the eastern German city of Breslau in 1939. By 1940, he had been reassigned to Memel, and in 1941, Fischer-Schweder became director of the Memel police force. According to the application, he saw action in the war from October

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<sup>21</sup> Personalbogen (30 November 1953), EL20/1 II, Bd. 1, SL.

<sup>22</sup> Melde- und Personalbogen I (1 December 1953), EL 20/1 II, Bd. 1, SL.

1943 to June 1945, which ended in a several week stay at the prisoner of war camp in Linz. Absent on the statement was mention of Nazi or SS membership.<sup>23</sup>

Within a few weeks of his application, Fischer-Schweder was asked for details about the “trivial change” in his name and birth date by investigators in Stuttgart. He cleverly played upon simmering Cold War tensions and argued that in order to avoid “automatic imprisonment in and eventual deportation” to the Soviet zone after the war, he began using the name “Fischer” as early as 1942.<sup>24</sup> Once this risk had passed, Fischer-Schweder notified officials to fix the mistake. The change, in other words, came not as an attempt to avoid postwar justice, but to avoid the uncertain fate of life in a Soviet camp. His answer allayed suspicions for the moment, and his application for reinstatement to the civil service was approved.

Good fortune smiled briefly on Fischer-Schweder. His successful application had played a careful game with the details of his past. He used false information to clear denazification, but then coupled this denazification with his real name and select details of his wartime experiences to gain re-admittance to the civil service under Article 131. It was a house of cards construction that depended on the situation being viewed from the single angle Fischer-Schweder determined. Whether hubris or ignorance factored in this decision, he had managed to play the game well to this point, and had won his first encounter with authorities. He was rewarded one month later.

While the particulars of his second application were being considered, the first, dated November 30, 1953, began to bear fruit. Apart from the use of his assumed name and birth date, the resume on this application for a civil service position in the district of North-

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<sup>23</sup> Ibid.

<sup>24</sup> Statement by Bernd Fischer (12 December 1953), EL28/2, Bd.3125, SL.

Württemberg was nearly identical to that of the Article 131 form. When the application of “Bernhard Fischer” came across their desks in early December, authorities felt that the “experiences of Fischer as a civil servant” seemed the perfect remedy to the “multiple and difficult duties” facing those in charge of the refugee camp situation in Ulm.<sup>25</sup>

The camp at Ulm-Wilhelmsburg had been intended to hold 2,500 refugees in the postwar period, but by 1953 Cold War tensions saw the camp size swell to nearly 3,800 refugees fleeing the Soviet-dominated east. The camp itself occupied a nineteenth-century fort, with imposing walls and a large enclosed commons. To this point, the camp had been subsumed as a part of the larger Ulm-Römerstrasse camp, but increasingly the challenges and day-to-day needs of the Wilhelmsburg camp made apparent the need for an individual director here as well. Since the middle of October 1953, officials had allocated funds to make this possible.<sup>26</sup>

On January 18, 1954, the vacuum salesman from Stuttgart became the camp director in Ulm. As the first director of this camp, he encountered a system in disarray. His referent point for order was militaristic, and he began to institute a string of effective and disciplined initiatives. Guards now wore brown uniforms, and entry to the camp became limited to the eastern gate, where visitors would be met by residents, thereby more closely regulating travel to and from the compound. Additionally, inhabitants over the age of fourteen were now required to carry identification papers at all times. He began a physical renovation of the facilities, many buildings still in disrepair from wartime aerial bombing raids.<sup>27</sup> When nearly

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<sup>25</sup> Regierungspräsidium Nordwürttemberg to the Ministerium für Vertriebene, Flüchtlinge und Kriegsgeschädigte, Stuttgart (10 December 1953), EL20/1 II, Bd.1, SL.

<sup>26</sup> Ibid.

<sup>27</sup> “Frischer Wind auf der Wilhelmsburg”, *Schwäbische Donau-Zeitung*, 21 May 1954.

forty residents fell ill shortly after he took control, he initiated measures to raise health and diet conditions within the camp.<sup>28</sup> By the end of June, as noted earlier, the cultural renovations of the camp concluded with the opening of the camp theater.<sup>29</sup> Encouraged by his successes, Fischer-Schweder moved the family to Ulm later that year.<sup>30</sup> The future looked bright.

### **The Fischer-Schweder Controversy**

During his program of reform at the camp, an investigation into his past in the Third Reich began to develop. Though he no doubt had believed that the conflicting dates on his applications would never intersect, eventually the twain did meet. By summer 1954 his employers became aware of the conflicting birth dates on his two applications, raising fresh doubts about the veracity of his claims regarding wartime activities and allegiances.<sup>31</sup> On August 28, 1954, at the request of the regional government of North-Württemberg, the *Bundesamt für Verfassungsschutz* (Federal Office for the Protection of the Constitution) in Cologne sent a request form to the Berlin Document Center for information on potential Nazi or SS membership for Bernhard Fischer-Schweder, born January 12, 1904.<sup>32</sup>

Whatever his motivations for continuing to falsify his papers, Fischer-Schweder seemed to be playing a 1950s game by 1945 rules. The massive problems facing the Allies and Germany at the end of the war had made it possible for Fischer-Schweder and others to

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<sup>28</sup> “40 Flüchtlinge im Lager erkrankt”, *Schwäbische Donau-Zeitung*, 9 February 1954.

<sup>29</sup> “‘Burgtheater’ wird am Samstag eröffnet”, *Schwäbische Donau-Zeitung*, 25 June 1954.

<sup>30</sup> Bernhard Fischer-Schweder to Regierungspräsidium Nordwürttemberg (1 June 1954), EL20/1 II, Bd.1, SL.

<sup>31</sup> Report by Regierungspräsidium Nordwürttemberg (25 November 1954), EL20/1 II, Bd.1, SL

<sup>32</sup> Bundesamt für Verfassungsschutz, Köln, to Berlin Document Center, US Army, Berlin (1 September 1954), EL20/1 II, Bd.1, SL.

submit false information; the bureaucratic logjam made individual verifications virtually impossible. But by 1953, the bureaucratic and organizational infrastructure had been built up substantially in West Germany, as more groups, organizations, and political agencies existed that aimed to assist in the reintegration of former Nazis on the one hand and in the investigation of those who had bypassed denazification channels on the other. The Berlin Document Center was one such agency.

The Center itself had only been fully operational since October 1953 but held millions of captured Nazi documents, including a near-total registry of Nazi and SS membership.<sup>33</sup> As such, the archive provided the largest extant database for information regarding complicity in the Third Reich. In 1953, as its English-language name indicates, the Center remained under the jurisdiction of the US Department of State. Unlike conventional archives which tend to group documents by provenance, all records there were arranged by name, making it inefficient for those researching a given event or unit, but invaluable for information on individuals. When authorities accessed the archive for information on Bernhard Fischer-Schweder, a thick file emerged and the weight of its implications shattered the postwar identity he had created.

On August 28, 1925, Bernhard Fischer-Schweder had joined the SA – the brute security force for the nascent Nazi party.<sup>34</sup> Four years later, Fischer-Schweder became a member proper of the Nazi party with the party number of 17,141. With such a low number, Fischer-Schweder was considered an “old fighter” (*alter Kämpfer*) in the party – an ideologically-motivated Nazi who had joined the party when it was little more than a

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<sup>33</sup> For more information on the history of the BDC and an overview of its holdings, see Henry Friedlander and Sybil Milton, eds., *Archives of the Holocaust: An International Collection of Selected Documents*, v.11 (New York: Garland, 1989).

<sup>34</sup> Berlin Document Center to Bundesamt für Verfassungsschutz, Köln (26 October 1954), EL20/1 II, Bd.1, SL.

thuggish movement of racism and Versailles revisionism. Before his service in the SA, Fischer-Schweder had been active in the *Freikorps*, extralegal quasi-armies that continued to fight in the east long after the armistice in World War I was declared. Gaining the rank of *Oberführer* in the SA, he emerged relatively prominently within the organization during the Nazi rise to power in 1933. According to *Gestapo* reports from 1934, Fischer-Schweder was taken into “protective custody” in a concentration camp following the Röhm purge, which effectively decapitated the leadership of the SA.<sup>35</sup> After nearly three months, he was released because “proof of his participation in the Röhm revolt could not be found.” This did not deter his enthusiasm for the state, however, and in 1941 he was promoted to Police Director in Memel, which carried with it SS membership. He remained in the SS thereafter, though he was reassigned after 1941 and served in various Panzer divisions of the Waffen-SS until the injuries he sustained in the closing months of the war.

A series of documents in his file further highlighted the involvement of Fischer-Schweder in the Nazi regime. A 1942 letter from Fischer-Schweder to *Reichsführer-SS* and Head of the German Police, Heinrich Himmler, which thanked him for a birthday gift, stating that he “considered it a renewal of the bonds of duty and loyalty” to the state, certainly did not bode well for Fischer-Schweder’s future.<sup>36</sup> Nor did an SS report from March 1943, which detailed his erratic behavior, excess drinking, and penchant for firing his sidearm indoors. In defense of his domestic marksmanship, he argued at the time that he had been unaware of any regulations against the “misuse of firearms.”<sup>37</sup> From the employment

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<sup>35</sup> Geheimnis Staatspolizeiamt, Berlin, to the Oberste SA-Führung, München (4 October 1934), EL20/1 II, Bd.1, SL.

<sup>36</sup> Bernhard Fischer-Schweder to Reichsführer-SS und Chef der Deutschen Polizei (14 December 1942), EL20/1 II, Bd.1, SL.

perspective of the civil service in 1954, the only thing worse than hiring a former SS officer was hiring a reckless, alcoholic SS officer with a poor understanding of both basic firearm safety and the law.

These findings further demonstrated that Fischer-Schweder's postwar resume had been a carefully constructed set of half-truths. He had not lied directly about his service: he had indeed risen through the ranks of the civil service from Breslau to the prominent post of Police Director in Memel. The Center findings confirmed these aspects of his record. But Fischer-Schweder had omitted any mention that this string of promotions was accompanied by a parallel ascent through the Nazi hierarchy.

By November 1954, the Berlin Document Center findings arrived to the regional government in charge of Fischer-Schweder's employment.<sup>38</sup> The situation called for immediate action, as Fischer-Schweder had clearly manipulated the system and played upon the trusting ignorance of the authorities through his application for the civil service. On November 23, he was called in for a meeting with his employers. He knew that he was had, and rather than deny all, Fischer-Schweder searched hard for a silver lining. He pointed out that he too had suffered under the Nazi regime, having spent several months in a concentration camp in 1934. "I also successfully rejected," he claimed, "membership in the SS from about 1937 to 1941," joining in 1941 only because his Memel promotion required it.<sup>39</sup> As for the self-incriminating postwar lies and falsehoods of this past, he continued the one-time successful excuse of attempting to avoid immediate imprisonment in a Soviet camp.

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<sup>37</sup> SS und Polizeigericht XVIII, Kiev, to the SS-Personalhauptamt, Berlin (26 March 1943), EL20/1 II, Bd.1, SL. His defense did not hold up and he was taken off duty for four weeks.

<sup>38</sup> Bundesamt für Verfassungsschutz, Köln, to Landespolizeidirektion Nordwürttemberg (2 November 1954), EL20/1 II, Bd.1, SL.

<sup>39</sup> Statement by Bernhard Fischer-Schweder (23 November 1954), EL20/1 II, Bd.1, SL.

Two days later, the officials decided Fischer-Schweder could no longer serve as camp director. Their decision noted that he had not only lied on his application about his birth date but that he had also “hidden his membership in the [Nazi] Party and SS” from the military tribunal in Bad Neustadt, rendering his “unaffected” denazification status all but invalid.<sup>40</sup> At the same time, putting a former SS officer in charge of a refugee camp reflected poorly on the local government to say the least, and a consensus seems to have emerged to keep the matter silent. Any public revelations of the incident would be an embarrassment for the government. They made the decision that Fischer-Schweder would have to resign.

This desire to avoid a public reaction also seems to have been fueled by a sense of compassion for Fischer-Schweder. As they noted, “Fischer is handicapped, he is married, and he has a child. He would have to go to great lengths to create a new life.”<sup>41</sup> They reflected positively on his service as the camp director, and though he had forced their hand through his falsehoods, they wished him no long-term ill. To this end, they wrote him a letter of recommendation for future applications, which noted the “care and cultivation” he had shown to inhabitants of the camp.<sup>42</sup> Similar to Pallmer’s faithful devotion to Fischer-Schweder in the opening anecdote, the realization that he had been a member of the SS seemingly posed no inherent moral dilemmas for authorities. They asked him to resign not because of concerns about his SS and Nazi past, but because he had lied on his application.

Fischer-Schweder, recognizing that he was no longer playing from a position of strength, found no choice but to acquiesce to the demand. Whether he delayed the action or

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<sup>40</sup> Report by Regierungspräsidium Nordwürttemberg (25 November 1954), EL20/1 II, Bd.1, SL.

<sup>41</sup> Ibid.

<sup>42</sup> Zwischendienstzeugnis, Regierungspräsidium Nordwürttemberg (16 February 1955), FL700/13 II, Zug. 20/6/79, AZ: IV Ca 252/55, SL.

further negotiated with the government is not certain, but his resignation did not arrive until early 1955. On February 2, under the subject line, “Termination of my employment contract,” he wrote:

I am requesting a release from the terms of my employment of January 1, 1954, in accordance with the required six-week notice of resignation, and in consideration of the fact that from the day of my employment I have not yet taken a vacation.

As for the reason of my resignation, I want to note that an extremely opportune job in industry has been offered to me, which pays considerably more than my current position. In the interest of my family I would like to take this offer.<sup>43</sup>

He began his vacation several weeks later, and his last official day of employment was to be March 31, 1955.<sup>44</sup> Regarding the supposed job offer he had received, Fischer-Schweder was bluffing. Indeed, he seemed to be of the persuasion that he would only resign if he was able to find a job in the private sector. Officials agreed to make some general efforts to aid his job search and accepted his resignation.<sup>45</sup>

Fischer-Schweder, however, was quickly discouraged. A month after his resignation and a bout of frustrating rejections from prospective employers, he wrote to the regional government requesting to be reinstated.<sup>46</sup> Though the regional government in North-Württemberg had attempted to help him find a job in the private sector, these had come to naught and he had recently been rejected. He had not heard back regarding his application for the civil service in neighboring South-Baden. Without a new job, Fischer-Schweder demanded his old one back. In addition to this economic plea, he made an appeal to their

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<sup>43</sup> Bernhard Fischer-Schweder to Regierungspräsidium Nordwürttemberg (2 February 1955), EL20/1 II, Bd.1, SL.

<sup>44</sup> Regierungspräsidium Nordwürttemberg to Regierungspräsidium Nordwürttemberg, Abteilung I, Kanzleidirektion (7 February 1955), EL20/1 II, Bd.1, SL.

<sup>45</sup> Ibid.

<sup>46</sup> Bernhard Fischer-Schweder to the Regierungspräsidium Nord-Württbg. Kanzleidirektion (24 March 1955), EL20/1 II, Bd.1, SL.

sympathies, “Based simply on my upbringing, I joined a party at a very young age, not knowing what forms it would later take.”<sup>47</sup> He went on to state that certain individuals would confirm his claims if they gave them the opportunity. But from the perspective of the officials, the matter was closed, and employed elsewhere or not, Fischer-Schweder no longer had a place at the Ulm camp. On April 13, 1955, he was officially fired from the camp.<sup>48</sup>

### **A Trial of Patience**

Though Bernhard Fischer-Schweder had learned to take shrapnel to the chest, he had not yet learned to take a hint, and on April 18, 1955, he sued the regional government for reinstatement. His lawsuit had a threefold aim:

- 1.) It will be shown that the resignation of the plaintiff from February 2, 1955 is null;
- 2.) that the employment contract was not ended by summary firing of April 13, 1955;
- 3.) [that] the accused state will be charged with bearing the costs of the lawsuit.<sup>49</sup>

He argued along similar lines to his earlier defenses: he had, indeed, been a member of the Nazi party, but was not ideologically motivated, had himself suffered under the regime, and had always performed dutifully as a civil servant. In his statement, he went on to say that he had “committed no political crime” and that his “political history as stated here was the full truth.”<sup>50</sup>

To help him make his case, Fischer-Schweder included a number of statements. Earlier in April, he began to call in these favors from individuals known in some capacity during the 1930s. In general they spoke glowingly of Fischer-Schweder, both as an

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<sup>47</sup> Ibid.

<sup>48</sup> Geschäftsstelle des Arbeitsgerichts, Stuttgart (18 April 1955), FL700/13 II, Zug. 20/6/79, AZ: IV Ca 252/55, SL.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

individual and as an opponent of the Nazi regime. One individual, a Dr. Nitschke in Schleswig, noted that Fischer-Schweder had been taken “very much against his will” into SS.<sup>51</sup> Another remembered that Fischer-Schweder had “vouched” for him when first rejected for membership in the NSDAP, which ostensibly was intended to speak more to Fischer-Schweder’s loyalty than to his involvement in the regime.<sup>52</sup> One example demonstrates the anecdotal nature of these accounts:

Both Mr. Fischer and I, who were in our homes and unaware of the impending actions, were alarmed at the events against the Jews in November 1938 [*Kristallnacht*]. In the courtyard of the police station were a great number of arrested Jews, one of whom spoke to Mr. Fischer and explained that he had been an officer in World War I and was a holder of the Iron Cross, First Class. This man left after an escape by dark. As far as I can remember, he emigrated shortly thereafter to Prague.<sup>53</sup>

Though the statement stopped short of stating that Fischer-Schweder played a role in the escape, it ably suggested a characteristic empathy. Curiously, Fischer-Schweder even included in his defense the letter of reference he received from the regional government after his resignation.

Like much of 1955, the trial did not go well for Fischer-Schweder. Legally, the court “rejected the suit as unfounded.”<sup>54</sup> Against his first argument, that his resignation should be nullified, the court argued that he had hardly been coerced and so the resignation stood. From this, it followed that his firing was moot, stating, “It did not depend on whether the accused state still had the right...to terminate the employment on April 13, 1955. At that

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<sup>51</sup> Statement by Dr. Nitschke (15 April 1955), EL20/1 II, Bd.1, SL.

<sup>52</sup> Statement by Gerhard Wieczarek (9 April 1955), EL20/1 II, Bd.1, SL.

<sup>53</sup> Statement by Rudolf Renner (7 April 1955), EL20/1 II, Bd.1, SL.

<sup>54</sup> Urteil (1 October 1955), p.7, FL700/13 II, Zug. 20/6/79, AZ: IV Ca 252/55, SL.

time the employment contract no longer existed.”<sup>55</sup> If that was the injury, the insult came when the court saddled Fischer-Schweder with the two-thousand Deutschmark legal costs, not an insignificant sum for the unemployed plaintiff. This ruling ended Fischer-Schweder’s career in the civil service, but the more serious development of the trial would not be settled in this courtroom.

The peculiar contours of this labor trial did not go unnoticed by the public at large. Article 131 had been intended to allow a number of individuals to reenter the civil service; it had not made it a civil right for these individuals to be employed there. This reversal of the situation, in which a former SS officer was suing the government for the right to command a refugee camp, found wide resonance. Local press commented on the “interesting labor court trial” and the “reemergence” of the SS officer.<sup>56</sup> The success of this coverage prompted a German news wire agency to request “to be informed of the next meeting date” for additional reporting.<sup>57</sup> Though further articles were not forthcoming, Fischer-Schweder’s name had now appeared in the media identifying him as an SS officer in Memel during the war. The effects would be costly.

The idea that all press is good press does not apply to former SS officers anxious to avoid serious inquiries into their past. Fischer-Schweder recognized the issues at play. Though his involvement in the SS had cost him his job, it had not yet cost him time in prison. Fearing further developments, Fischer-Schweder responded as he apparently considered best: he wrote a letter to the editor. On May 26, 1955 – one day after an article about his lawsuit

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<sup>55</sup> Ibid., 8.

<sup>56</sup> “Ein interessanter Arbeitsgerichtsprozeß”, *Schwäbische Donau-Zeitung*, 26 May 1955; “SS-Oberführer wieder ‘aufgetaucht’”, *Ulmer Nachrichten* (hereafter, *UN*), 25 May 1955.

<sup>57</sup> Deutsche-Press-Agentur to Arbeitsgericht Stuttgart (1 June 1955), FL700/13 II, Zug. 20/6/79, AZ: IV Ca 252/55, SL.

appeared in the press – a brief seven-point statement appeared in the local newspaper, the *Ulmer Nachrichten*. In addition to offering a general rehash of his lawsuit, Fischer-Schweder argued there that during the war “I kept many people—Christians, Jews, Germans, Austrians, and Poles—from harm and mortal danger.” He again used Cold War tensions to explain his false postwar information, and as to the issue of why he continued to use false information in 1953, he distilled the essence of his postwar integration tactics: “I had no reason to bring up things that I was not asked about.”<sup>58</sup>

To be sure, no one could accuse Fischer-Schweder of undue forthrightness, but the questions posed to him quickly began to change in the weeks after these articles appeared. The rapid initiation and development of an investigation into Bernhard Fischer-Schweder can be credited largely to two accusations stemming from the peculiar decisions he made in 1955. These decisions – his application for the civil service in South-Baden after his resignation from the camp and the filing of a lawsuit against the North-Württemberg government – resulted in two devastating revelations about his character and past behavior.<sup>59</sup> The first, by Meta Poneleit, suggested for the first time a particular criminality to his behavior and not just membership in a Nazi organization. The second, a statement by Wilhelm Kersten, pointed out a string of state-sponsored crimes hitherto unexplored in the West German understanding of the Third Reich. The appearance of both statements in such a short span of time can only be attributed to the strange series of public overtures Fischer-Schweder made in the previous months.

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<sup>58</sup> “Der Leser hat das Wort: Nichts zu verschleiern”, *UN* (26 May 1955).

<sup>59</sup> Anzeige gegen Fischer-Schweder, Bernhard, Staatsanwaltschaft Ulm/Donau (3 November 1955), EL322 II, Bd.1, SL. This document credits the statements by Poneleit and Kersten (discussed below) with giving cause and impetus to the investigation.

Given the centrality of these disastrous decisions, then, it is useful to consider how and why they made sense to Fischer-Schweder at the time. His choice to disappear under the radar after the war conformed to denazification trends. Similarly, his resurfacing in 1953 aligned with the constitutional changes of Article 131. But why, after losing one job for Nazi membership, would a man with so much to hide reapply (for a second time) to the government and file suit in court – essentially inviting greater scrutiny by the government and public alike? While no definitive answer is possible, Fischer-Schweder probably came at these decisions from a different perspective. He likely interpreted the Berlin Document Center revelations as having put an end to questions about his past, not inviting more. To reiterate an earlier point, he did not recognize that by the 1950s the situation for Nazi reintegration had changed considerably and the cards were no longer stacked in his favor. He did not realize that through these decisions, he would attract the attention of accusers, investigators and prosecutors.

### **The Wrath of Spurned Subordinates**

Word of Fischer-Schweder's criminality first reached the Ulm prosecutors via an unexpected package that arrived to the district attorney's office on June 13, 1955.<sup>60</sup> Sent from the detectives of the regional capital of Stuttgart, the contents demanded immediate attention. Dr. Rudolf Mettler, the chief prosecutor, opened and removed the documents, which concerned Fischer-Schweder. Only a few weeks earlier, Mettler had become familiar with him through the labor court affair. Perhaps Mettler expected the information to concern

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<sup>60</sup> Landespolizei Nordwürttemberg – Kriminalhauptstelle to Staatsanwaltschaft Ulm (8 June 1955), EL322/II, Bd.1, SL.

this situation, but as he was soon to discover, the contents of this envelope were of an entirely different ilk.

A cover letter noted that enclosed were statements regarding the wartime behavior of Fischer-Schweder as recalled by his former secretary in Memel, Meta Poneleit. The statements had been prepared several months earlier, at the end of March 1955, by a Dr. Ballweg, who served in human resources for the regional government in South-Baden. He had been making a routine inquiry pursuant to Fischer-Schweder's recent application to join the civil service there. Ballweg passed the information on to Stuttgart, which had now forwarded the matter to Mettler in Ulm, under whose jurisdiction the matter fell.

Mettler set aside the cover letter and turned to Poneleit's comments. She described briefly her service from 1939-1944 in Memel, before the questions turned to Fischer-Schweder. As Ballweg reported it, she paused before responding, but stated simply: "He was Satan."<sup>61</sup> A harsher condemnation is scarcely imaginable. Ballweg pressed for more details. She described Fischer-Schweder as an alcoholic who was uniformly disliked. Asked whether she could think of any specific incidents or illustrative examples, Poneleit recalled the following story:

According to someone in the police service, Fischer went to the Memel ghetto for his pleasure one Sunday. There was a four-meter wide grave there that had been dug out for shootings. He said to a Jew, if you can jump over this grave and make it successfully to the other side, I will let you live. During the leap over the grave, he then shot him.<sup>62</sup>

Within the week, Mettler opened a preliminary criminal investigation into Fischer-Schweder.

While the Poneleit revelations emerged out of Fischer-Schweder's civil service application in South-Baden, the Kersten statements came out of his lawsuit against the

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<sup>61</sup> Statement of Meta Poneleit, prepared by Dr. E. Ballweg (31 March 1956), EL20/1 II Bd.1, SL.

<sup>62</sup> Ibid.

government in North-Württemberg. The coverage of the case in the local newspapers caught the attention of a Mr. Böhnke, resident of Ulm. The story of an SS officer from Memel in 1941 reminded Böhnke of Wilhelm Kersten, an acquaintance who had also been in the Memel police at that time and who now lived in Hanover. He wrote Kersten for information, enclosing a copy of Fischer-Schweder's letter to the editor.

On July 3, 1955, Kersten responded to Böhnke's letter, happy to have heard from an old friend.<sup>63</sup> He noted that he had indeed known Fischer-Schweder, and in fact had acted as his driver on several occasions. Kersten told Böhnke that he had shared Fischer-Schweder's letter to the editor with another former Memel policeman, and upon reading the claims, "He could only shake his head that he [Fischer-Schweder] had supposedly been a friend to Jews and Poles." Kersten also responded to the argument that Fischer-Schweder had been forcibly taken into the SS, stating, "Mr. Fischer had explained to me that he did everything he could in order to go from the SA to the SS." However, his most damning statement occurred at the end of the two-page letter, unprovoked by Böhnke and certainly not previously referred to by Fischer-Schweder: "Fischer-Schweder...led the first shooting of some 100 Jews in Garsden."<sup>64</sup>

Böhnke passed on the letter from Kersten to the *Israelitische Kultusvereinigung* (Israeli Cultural Association) offices in Stuttgart, which forwarded them on to Dr. Mettler in Ulm on September 12. In a cover note, the representative of the organization, Mr. Warscher wrote, "We are hereby filing a criminal complaint against Mr. Fischer-Schweder."<sup>65</sup> The

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<sup>63</sup> Wilhelm Kersten und Familie to Herr Böhnke und Familie (3 July 1955), EL322 II, Bd.1, SL.

<sup>64</sup> Garsden is present day Gargzdai, Lithuania.

<sup>65</sup> Warscher, Israelitische Kultusvereinigung to Staatsanwaltschaft Ulm (12 September 1955), EL322 II, Bd.1, SL.

intervention of this document and this organization gave added impulse to the investigation and placed greater pressure on the investigator's shoulders to carry it out successfully.

The Poneleit and Kersten documents represent a remarkable set of accusations. To a large extent, Fischer-Schweder was responsible for the appearance of both. As already seen, his application led to the first and his lawsuit to the second, but beyond this both accusations shared a deep-seated resentment of Fischer-Schweder. To have a former secretary and a one-time chauffeur volunteer such incriminating information speaks a great deal to Fischer-Schweder's wartime demeanor. Though one can only surmise the personal interactions between Poneleit and Fischer-Schweder that led her to call him "Satan," Kersten was more forthcoming about his personal contempt. While on service in Memel, Kersten had unknowingly arrested Fischer-Schweder's first wife for walking her dog without a leash, which ended predictably in a fourteen-day prison sentence for Kersten.<sup>66</sup> In their accusations, both authors mobilized against Fischer-Schweder more out of contempt for his character than for his crimes.

Regardless of the authors' motivations, the two statements resolved fundamental problems for the investigators. Police in Stuttgart had earlier made some general inquiries into Fischer-Schweder's background, but they did not know whether anything improper had ever taken place, or if it had, when and where these crimes occurred. Investigators first questioned Fischer-Schweder's early support for Nazism and his role in the police force in

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<sup>66</sup> Wilhelm Kersten und Familie to Herr Böhnke und Familie (3 July 1955), EL322 II, Bd.1, SL. In a subsequent statement, Kersten explained that Fischer-Schweder's wife had been walking her dog without a leash, which was strictly forbidden in Memel. He referred her to this law, but she responded with disdain, stating that she was Fischer-Schweder's wife. However, she had no identification papers with her, and so Kersten took her into custody, a move that was greeted with "the greatest astonishment" by his colleagues. Fischer-Schweder then sentenced him to a term of imprisonment. Kersten appealed the decision to a higher SS court and both men were ultimately transferred out of Memel shortly thereafter. Statement by Wilhelm Kersten (6 December 1955), H Nissen, SU.

Breslau, turning up nothing criminal.<sup>67</sup> Poneleit's denunciation therefore reoriented the efforts, pointing to a specific crime in a specific place: Memel, 1941.

Even with this new focus, the interviews carried out between the arrival of the Poneleit statement and that of Kersten, a three-month window between June and September 1955, indicate that her information alone was insufficient. Though they conducted five interviews with members of the Memel police force under Fischer-Schweder, there was no mention of mass shootings. Similarly, none could confirm Poneleit's claims about his shooting of Jews in a ghetto. What did emerge was a negative view of Fischer-Schweder as an "exact, militaristic" individual, widely disliked "because of his somewhat arrogant egomaniacal personality and because he liked to try and disregard laws and regulations."<sup>68</sup> These statements portrayed Fischer-Schweder as a belligerent leader whose actions often circumvented or exceeded norms; if crimes had occurred in or near Memel, they were the actions of sadistic individuals.

Kersten's denunciation thus came as a revelation, providing information on the time and place of a mass execution in Memel. Poneleit's story of Fischer-Schweder as sadist, wantonly murdering for pleasure, proved a hard case to make, but if there had been a mass execution, as Kersten indicated, then others were involved and the net could be drawn more closely around Fischer-Schweder. Though the scope of the crimes under investigation increased, the emphasis on Fischer-Schweder the lone madman diminished, as a mass execution required cooperation and coordination among a range of individuals and groups. Armed with this new information, the investigators began to expand the investigation.

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<sup>67</sup> Landespolizeidirektion Nordwürttemberg, Kriminalhauptstelle to Röhrig [Joachim Röhricht], Hildesheim (28 October 1954), EL48/2, Bd.3125, SL.

<sup>68</sup> Statement by Hans Günther (28 July 1955), H Nissen, SU; Statement by Gerhard Schwerdtfeger (10 August 1955), H Nissen, Stadsarchiv Ulm (hereafter, SU).

The Poneleit and Kersten accusations had an impact not only on the investigation, but on the investigators. These Ulm detectives had no specific training in investigating war crimes or navigating the murky waters of state-sponsored mass murder. They were not operating in a framework to expect or to handle crimes of this nature. As a result, although Fischer-Schweder placed himself in the SS at the border region of Lithuania on the eve of war with the Soviet Union, what today might be considered the frontlines of the Holocaust, this admission had no criminal connotations for investigators in 1955; the difference in potential crimes committed in 1941 Memel and 1936 Breslau was not apparent. In fact, the dominant trend in the hundreds of postwar trials and investigations leading up to the Ulm trial had been to try Germans for crimes committed in Germany against other Germans, not for crimes against Jews in the war lands to the east.<sup>69</sup> This created a bureaucratic and investigative impulse to look first for crimes against fellow Germans, a tendency that the Poneleit and Kersten accusations overcame. These revelations taught the Ulm investigators to ask new questions of the past.

### **“In the Name of the *Führer*”**

The investigators immediately encountered the challenges inherent in gathering reliable evidence on state-sponsored crimes that occurred over a decade earlier. They took

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<sup>69</sup> Of the over 450 trials that took place in West Germany for war crimes between the end of the war and the Ulm trial in 1958, over 75% concerned crimes in Germany proper and nearly 65% with Germans as the primary target group of these crimes. To some extent, this disproportion is due to initial Allied restrictions on German jurisdiction over war crimes, limiting them to crimes in Germany. As a result, *Endphase* crimes committed in the closing days of the war during the retreat across the Reich were tried disproportionately in the early years. For a more detailed discussion of the legal restrictions on prosecutions and other particularities in the legal system of postwar West Germany, see Henry Friedlander, “Deportations”, *Leo Baeck Institute Year Book* 29; and Marc von Miquel, *Ahnden oder Amnestieren? Westdeutsche Justiz und Vergangenheitspolitik in den Sechzigerjahren* (Göttingen: Wallstein Verlag, 2004). Figures and analysis drawn from the trial summaries in *NS Justiz und NS-Verbrechen: die westdeutschen Strafurteile wegen nationalsozialistischer Tötungsverbrechen* (Amsterdam: University of Amsterdam, 1998); synopses of the trials available on the website: “Justiz und NS-Verbrechen,” accessed 16 March 2008 <<http://www1.jur.uva.nl/junsv/>>.

the Kersten statement and went back to those previously interviewed and pressed for fresh information. The formula over the coming months would be to use new information to ply details from old witnesses. Each witness was pressured at the end of the interrogation to provide any and all names of those whom they remembered as potentially involved. It was a slow, tedious process, but one which allowed them partially to overcome the difficulties of investigating a crime that occurred in a foreign country.

Those interviewed by and large played a difficult balancing game, trying to come across as helpful and open, while reluctant to provide any self-incriminating statements. When confronted with the information about the massacre in Garsden, most acknowledged that this occurred, but made self-exculpatory statements along the lines of “I did not see these things with my own eyes.”<sup>70</sup> Similarly, they tended to speak of the shooting in what Christopher Browning has termed the “anonymous passive,” noting the crimes but omitting the criminals: “After the first group had been shot, the next ten people were led to the grave... In the end, they themselves were shot just as their predecessors.”<sup>71</sup> Another trope was to claim that Garsden had been a “center of resistance” against the *Wehrmacht* troops and that those killed had not been Jews but rather “saboteurs, spies, and other similar elements.”<sup>72</sup> Parsing out the particulars of a shooting that had taken place fourteen years earlier in places and circumstances wholly foreign to the investigators posed substantial challenges from the outset.

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<sup>70</sup> Statement by Max Kahlberg, (10 October 1955), H Nissen, SU.

<sup>71</sup> Christopher R. Browning, *Nazi Policy, Jewish Workers, German Killers* (Cambridge: Cambridge University Press, 2000), 152; Statement by Kurt Grau (7 December 1955), H Nissen, SU.

<sup>72</sup> Statement by Kurt Grau (7 December 1955), H Nissen, SU; statement by Gerhard Schwerdtfeger (10 August 1955), H Nissen, SU.

Despite these difficulties, a number of details quickly emerged. At the outset, investigators sought details on the shooting in Garsden. This town, located not ten miles across the German-Lithuanian border from Memel, had been among the first invaded during the outbreak of the war against the Soviet Union in June 1941. On June 24, only two days after the invasion, a number of civilians were rounded up, forced to dig a mass grave, and led out in groups to be shot. All those interviewed agreed that these orders had initiated from above, and most argued that the killings were carried out in response to partisan activity against German soldiers. Beyond these general details, however, great disagreement emerged regarding the number of those killed and whether or not the victims had been Jewish.

Given the reluctance of most to volunteer information, the statement of Werner Schmidt-Hammer on November 9 added clarity to the investigation. The optometrist from Aalen and former member of the police in Memel revealed much through his self-incriminating remarks. He confirmed what many had already alluded to, namely that Garsden was no exception; there had been a number of other shooting sites on the border lands near Memel. Though he claimed that only partisans were killed, not Jews, Schmidt-Hammer stated:

The creation of an execution squad [*Exekutionskommando*], which consisted of members of the police [*Schutzpolizei*] from the police office in Memel, was ordered by Fischer-Schweder. The squad consisted of 10-12 police officers. These officers were chosen by Major Günther [of the Memel *Schutzpolizei*], and I was appointed as leader of this squad by Major Günther.<sup>73</sup>

He went on to describe his role as leader of this execution squad in Garsden, saying that Fischer-Schweder had told him to read out the purpose for the executions before each group was killed. Under the guise of partisan resistance, Schmidt-Hammer read aloud before each

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<sup>73</sup> Statement by Werner Schmidt-Hammer (9 November 1955), EL322 II, Bd.1, SL.

group was killed, “You are being shot in the name of the *Führer* on account of attacks against German troops.”<sup>74</sup> In this way, victims died as though enemies of the Reich.

With the Schmidt-Hammer statements, the case began to take shape. Subsequent interviews filled in details and by mid-December the investigators had amassed information on four distinct shootings between June and August 1941 in Lithuanian towns near Memel, involving estimates of between eight and three hundred victims per execution.<sup>75</sup> Witnesses noted that though Schmidt-Hammer had given the orders to fire during these massacres, “the shooting had been ordered by higher-up SS and police officers.”<sup>76</sup> A number of statements also directly refuted claims that those killed had been resisters. Kurt Neubacher, who admitted to being a shooter, described the process and victims: “The members of the shooting squad, I among them, had the order to aim our guns, always two to a Jew, at the heart...The Jews all fell in and near the grave.”<sup>77</sup> Another stated, “I personally knew a number of the Jews who were shot.”<sup>78</sup> A striking story retold by another shooter involved a Jewish victim, who upon recognizing his shooter as a neighbor, stated, “Gustav, shoot well!”<sup>79</sup>

Statements such as these revealed a great deal about the nature and scale of the crimes, but they did not solve the most vexing issue for the investigators: “Whether Fischer-Schweder carried out the shootings of Jews based on orders from a higher office or from his

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<sup>74</sup> Ibid.

<sup>75</sup> These locations were Garsden, Krottingen (present day Kretinga, Lithuania), Augustowo (Augustów, Poland), and Polangen (Palanga, Lithuania). Report by Helmut Opferkuch (15 December 1955), EL322 II, Bd.1, SL.

<sup>76</sup> Statement by Kurt Neubacher (24 January 1956), H Nissen, SU.

<sup>77</sup> Ibid.

<sup>78</sup> Statement by Richard Freyth (8 December 1955), EL322 II, Bd.1, SL.

<sup>79</sup> Statement by William Schubert (6 January 1956), EL322 II, Bd.1, SL.

own initiative.”<sup>80</sup> To this extent, it is worth bearing in mind that the investigators at this point were not investigating crimes so much as they were investigating a single criminal, Fischer-Schweder, and it was in consideration of his prospective guilt that interviews and interrogations were made. The question of his responsibility was therefore absolutely central to the prosecutor’s ability to try Fischer-Schweder for murder.

In the postwar period, the Federal Republic of Germany tried crimes committed in the Third Reich under the same code of law as applied to all crimes in West Germany. As a result, the strict West German definition of “murder” applied to war crimes as well, which consisted of several requirements. First, to convict an individual of first degree murder, the court had to prove that the homicide was committed out of personal initiative and due to base motive, cruelty, or other distinguishing criteria. Second, for a crime to classify as murder, it had to be proven that “blood lust” was a motivation in the crime.<sup>81</sup> Claiming to have “only followed orders” could therefore disqualify the charge of murder in both cases. In such an instance, the person could only be accused of accessory to murder, meaning one who carries out a crime that was not willed or identified as one’s one.

To establish guilt under this strict rubric, the investigators had two options: prove that Fischer-Schweder had personally authorized the creation of a shooting squad to carry out the murder of innocent civilians, or prove that he had demonstrated a “thirst for blood” in other ways during these massacres. Based on the interviews conducted, both options seemed open.

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<sup>80</sup> Report by Helmut Opferkuch (1 March 1956), EL322, Bd.1, SL.

<sup>81</sup> Adalbert Rückerl, *The Investigation of Nazi Crimes*, trans. by Derek Rutter (Hamden, Conn.: Archon Books, 1980), 41-43. This strange distinction was not resolved until 1962, when the “Stashinski judgment” of the German Federal Supreme Court stated that the *Befehlnotstand* no longer held resonance and an individual could and would be held accountable for his/her actions.

The statement of Schmidt-Hammer, which remained invaluable due to its self-incriminating content, had clearly pointed to Fischer-Schweder as the progenitor of the orders.

A string of accusations about his extreme behavior also seemed to satisfy the “thirst for blood” requirement. Certainly, Poneleit’s condemnations remained in consideration, though these had not been subsequently verified. More recently, Kersten had suggested that Fischer-Schweder “went alone into the grave [in Garsden] and – immediately next to those still living – delivered the finishing shots.”<sup>82</sup> Neubacher, one of the other shooters, recalled an incident during the selections in Garsden, when Jewish men were separated from the women and children. A boy, out of fear of separation, ran to his father. Fischer-Schweder then “exchanged one of the men who was supposed to be shot with the Jew’s son. Father and son were then shot at the same time, standing next to one another.”<sup>83</sup>

By the spring of 1956, the investigators were therefore sufficiently convinced of Fischer-Schweder’s guilt in authorizing and carrying out the massacres of “at least 400” individuals in the Lithuanian towns of Garsden and Krottingen, with others still under investigation.<sup>84</sup> On May 2, 1956, they interrogated Fischer-Schweder, presenting him with the full array of statements against him. Though unable to deny that those killed were Jewish, Fischer-Schweder stated that Garsden “was only inhabited by Jews”; in other words, they were “targeted not as Jews, but as snipers and murderers of German soldiers.”<sup>85</sup> As for the creation of a shooting squad, Fischer-Schweder argued that this did not originate with him:

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<sup>82</sup> Statement by Wilhelm Kersten (6 December 1955), H Nissen, SU.

<sup>83</sup> Statement by Kurt Neubacher (24 January 1956), H Nissen, SU.

<sup>84</sup> Staatsanwaltschaft to Amtsgericht Ulm/Donau (28 April 1956), EL322 II, Bd. 1, SL.

<sup>85</sup> Statement by Bernhard Fischer-Schweder (2 May 1955), EL322 II, Bd.1, SL.

[Hans-Joachim] Böhme, the leader of the state police service in Tilsit called me after a consultation with Berlin, possibly via telegram, and told me he had clarified his jurisdiction. He has received orders to take over the assignment of the troops because it rightly concerned the armed resistance of civilians. But he had no people for organizing a shooting squad because the majority of his officers went along with the *Einsatzkommandos* in the invasion.<sup>86</sup>

According to Fischer-Schweder, he had no choice but to make his men available to Böhme. The Fischer-Schweder defense rested upon this refocusing of responsibility for orders onto those higher up the chain of command and the claim that he operated under a compulsion to follow orders and that the victims were shot as resisters, not Jews. He also summarily dismissed the devastating claims of Kersten, Poneleit, and Neubacher. His defenses rang hollow and the next day, May 3, 1956, authorities arrested Bernhard Fischer-Schweder.

### **Nazi Crimes Come Home**

What to make of Bernhard Fischer-Schweder? He was in many ways an archetypal character in the larger story of twentieth-century Germany. As an anti-democratic *Freikorps* member after WWI, he was too young to win the war but determined to win the peace. He became an old fighter in the Nazi party, drawn more by its ideological zeal and anti-Semitism than its economic promise. Under the Third Reich, Fischer-Schweder embodied the SS opportunist, offering soldiers and self for participation in mass murder. The belligerent and alcoholic Holocaust perpetrator, however, found himself demoted and thrust onto the advancing Soviet war machine at war's close. During denazification, the wounded Nazi officer went under the radar, disappearing into society until confidence caused him to resurface. As an Article 131er, he reentered the civil service, only to be taken down by a society increasingly sensitive to the problems of reintegrating unpunished Nazi perpetrators.

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<sup>86</sup> Ibid.

He was, in other words, present at and participant in a vast sequence of deplorable aspects of German society. None of these experiences were unique, but to have them combined in the life of one individual affords a singular opportunity to approach thirty years of German history through a single biography.

And yet for all of his efforts to change his name and date of birth, to avoid, hide, and conceal his murderous past, what brought Fischer-Schweder down was something he had never bothered to hide, something he had in fact always celebrated: his role as Police Director in Memel in 1941. He had felt confident that the details of his past in and near Memel would remain undiscovered, and for a decade he was correct. He listed this position on his denazification forms, used it to gain reentry into the civil service, and even noted it in his seven-point letter to the editor. In the end, this knowledge alone proved sufficient to undo Fischer-Schweder. The revelations about his criminal past came not from SS members or Nazi documents, but from his former secretary and chauffeur. The information was always there.

It is therefore fundamentally significant that for a full decade after the war, no one bothered to question this background. He commanded the police force in a city on the periphery of the Holocaust, where not ten miles away hundreds of Jews were summarily shot and killed. It would not take a crack investigator to wonder if the one might have knowledge of the other; all it would take would be the knowledge that the two had happened. This knowledge did not exist in West Germany until brought, by Poneleit and Kersten, to the attention of authorities. The majority of crimes committed in the East had remained there since the war ended. With the investigation of Fischer-Schweder, the Nazi crimes began to come home.

## Chapter 2

### The Trial of Ten

Over a year after Fischer-Schweder's arrest, on July 6, 1957, regional newspapers in West Germany were abuzz with information about a "ghastly trial" coming before the courtroom in Ulm.<sup>87</sup> The *Schwäbische Donau-Zeitung* wrote about this new case's strong "parallels to the Nuremberg trials," suggesting that it "would possibly grab the attention of the entire world."<sup>88</sup> The investigative efforts alone, they noted, had consumed countless hours and thousands of pages of paperwork. The cause of their outbursts was a press conference held the previous morning in the district attorney's office in Ulm.

On that day, the lead prosecutors of the ongoing investigation against Bernhard Fischer-Schweder read the charges against those arrested. In all, ten men were to be tried for crimes of murder and accessory to murder during their time on the Lithuanian border regions in 1941. Appreciating the magnitude of the moment, the prosecutors sent notice of the conference to all the major publications of the area.<sup>89</sup> For them, this was the culmination of extensive investigations stretching back over a year. The path to the podium on that day was difficult and drawn-out, and along the way the investigative team broke with legal tradition and in the process laid the groundwork for a new way of prosecuting Nazi war criminals.

When the investigation began the previous year, there was little indication of its future exceptionality. Fischer-Schweder had certainly charted his own course through the

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<sup>87</sup> "Grauenhafter Prozeß vor dem Ulm Schwurgericht," *Ulmer Nachrichten*, 6 July 1957.

<sup>88</sup> "'Verwaltungsmassenmord' vor dem Schwurgericht," *Schwäbische Donau-Zeitung*, 6 July 1957.

<sup>89</sup> Schüle to Redaktion (3 July 1957), EL302 I, Bd.305, SL.

postwar period, but the contours of the investigation into his past were typical of those years. As with Fischer-Schweder's situation, these prosecutions of Nazi war criminals frequently began with an accusation against an individual for war crimes. Such accusations themselves were rare, as they required a chance encounter between a Nazi perpetrator and a survivor of their crimes, which by their very nature left few survivors. This accusation would mobilize local investigators and district attorneys into action. Depending on the stridency of these efforts, this individual would then be investigated and put on trial. The outcome of these trials in turn hinged largely on the prosecutorial zeal of the district attorney and the juridical acumen of the presiding judge.

What set the investigation of Fischer-Schweder apart from this bulk of hundreds of postwar cases was what took place between his arrest and the presentation of the indictments before the German public that July morning in 1957. If the first part of this paper – Fischer-Schweder's postwar rise, fall, and arrest – held a mirror to West German society, illuminating dominant trends and subversive strands of postwar integration, what came next broke with these traditions and pointed West Germany down a new path of criminal prosecution and judicial engagement with its Nazi past. The legal and institutional legacy of the trial that began with Fischer-Schweder was profound.

The cultural legacy of the Ulm trial, though, was more ambiguous. The crimes and criminals in question were of a different nature than previously brought before West German courts, and in this regard, the trial in principle had the potential to modify dominant narratives of the Nazi era. But because of strictures in the 1950s West German legal system, the trial in effect reinforced these narratives. In this way, the Ulm trial was interpreted at the time as a large and prominent case, but one that fit into the prosecutorial trends of the time,

namely that those on trial were sadistic murderers and therefore largely different from the bulk of the population. This second half of the paper therefore seeks to explore this tension between the significant legal legacy of this trial and its more ambiguous cultural impact.

### **The Stuttgart Directive**

With the arrest of Fischer-Schweder, the detectives initially began to close out the investigation and hand it over to the prosecutor for trial. Due to the particularly self-incriminating remarks made by Werner Schmidt-Hammer, he was to remain under investigation but was not arrested at the time. The principal aim of the investigators had been to determine whether Fischer-Schweder had taken part in anything criminal, and if he had, to uncover sufficient evidence for his prosecution. They were engaged in a process, widespread throughout postwar Germany, which emphasized the criminals; the crimes were secondary. Certainly other individuals were involved in the mass murders in Garsden and other Lithuanian towns, but these were not the individuals under investigation in Ulm.

A letter from the regional prosecutor's office decided otherwise. The lead prosecutor of Stuttgart, Erich Nellmann, who oversaw ongoing investigations in the region, had been notified that the investigation was being concluded. In June 1956, just a month after Fischer-Schweder's arrest, he wrote a memo to the regional government, Ulm investigators, and prosecutors. It read:

I have come to believe that...further extensive investigations are needed, which will necessarily require the full efforts of the head of the Ulm prosecutor's office, Dr. Mettler. The defendant Fischer-Schweder was extensively questioned recently about the charges against him, namely that he shot or allowed to have shot a great number of Jews in the border region of Memel-Lithuania at the beginning of war. His defense has shown that the investigations so far were insufficient and they simply will have to be started over from scratch.<sup>90</sup>

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<sup>90</sup> Ernst Nellmann to Justizministerium Baden-Württemberg (9 June 1956), EL322 II, Bd.304, SL.

Nellmann went on to cite public pressure for a more extensive investigation, noting that agencies such as the *Israelitische Kultusvereinigung*, which had earlier brought Kersten's letter to the Ulm detectives, would not be satisfied with a narrow trial focused only on Fischer-Schweder.

The directive forced the investigation to reopen and pushed it in a wholly different direction. First, it shifted the emphasis off the criminal and onto the crime. The investigation was no longer into Fischer-Schweder and involving mass shootings in Lithuania, but rather into mass shootings in Lithuania and involving Fischer-Schweder. This necessitated a second change, this time in personnel. Since an investigative reorientation would require significantly more man hours and effort, Nellmann augmented the new demands by sending one of his top prosecutors, Erwin Schüle, to Ulm. These two actions fundamentally altered the trajectory of the investigation into Fischer-Schweder.

Schüle set to work immediately upon receiving his assignment. A forty-five year old *Wehrmacht* veteran of the Eastern Front, Schüle had been practicing law after the war at the public prosecutor's office in Ludwigsburg near Stuttgart.<sup>91</sup> As his first action in the Fischer-Schweder case, he sent a German-language edition of Gerald Reitlinger's *The Final Solution* to the investigators' office in Ulm.<sup>92</sup> This 1953 work was among the first to attempt a systematic approach the Nazi policies of extermination taken against European Jews. As a first act, the move was symbolically significant. The book made clear what Nellmann had intimated: these crimes could not be pursued in isolation, but rather only in the context of the

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<sup>91</sup> "War Crimes Unforgotten," *Time* (9 Nov. 1962),  
<<http://www.time.com/time/magazine/article/0,9171,829321,00.html>>.

<sup>92</sup> Erwin Schüle to Staatsanwaltschaft Ulm/Donau (12 June 1956), EL322 II, Bd.304, SL; Gerald Reitlinger, *The Final Solution: The Attempt to Exterminate the Jews of Europe, 1939-1945* (London: Vallentine, Mitchell, & Co., 1953).

Nazi genocide of the Jews. These were crimes committed as part of a state-sponsored plan of mass murder and had to be investigated and prosecuted as such.

The Reitlinger work further demonstrated Schüle's willingness to move the investigation beyond the strict confines of perpetrator accounts to develop a rich backdrop to the mass murders. From the moment he joined the case, the investigation grew in both breadth and depth; that is to say, the number of those investigated increased beyond Fischer-Schweder, and the investigation sought to contextualize the shootings in the wider activities the Third Reich. With these objectives in mind, Schüle reached out to non-traditional investigative sources, working with survivor organizations, academics, and governmental agencies to add texture to his case.

Schüle's appointment thus led to a bifurcated investigation. Along one track, the Ulm detectives continued to carry out the bulk of the interrogations, continuing the formula used with Fischer-Schweder: try to get those interviewed to offer new names and information, then use new information on old witnesses. Once Fischer-Schweder fell and rolled on Böhme and others, the case began to come together. Along the other, Schüle and Mettler worked on the historical background of the shootings, seeking military information, going through newly accessible archives, and collecting as much information as they could on conditions, contexts, and crimes of the Holocaust in Lithuania during 1941. This was the investigation's new path.

Unfortunately, in the middle of the 1950s, this was also the path less traveled. Tellingly, the best source on the Holocaust that existed for a West German prosecutor in 1956 was a translated work by Reitlinger, an amateur historian in England. Though generally recognized that the Nazi crimes against the Jews were of a singular nature, little

scholarly work had been done to articulate the mechanisms of this genocide.<sup>93</sup> It has already been shown that without the Poneleit and Kersten statements the investigators had no idea that Fischer-Schweder, as an SS officer on the borders of the Soviet Union in 1941, might have been involved in crimes of the Holocaust. Even once these crimes were uncovered, there was still confusion about the motivation behind the shootings and how or if they fit into any wider strategy during the opening months of war with Russia. As a result, the new course of the investigation posed immediate challenges; the investigators would be parsing through new and previously inaccessible records and archives, poring over records untouched since Nuremberg.

### **A Solitary Life**

While the investigation of Fischer-Schweder expanded, the man himself sat alone in his cell in Ulm, unaware of the maelstrom he had called into being. After fifty-one years, Fischer-Schweder's life bore a strange ledger. He had lived under five governments – Imperial, Weimar, Nazi, Occupied, and Federal Germany – and had the ill-earned distinction of finding himself incarcerated by the most recent three. At the same time, he had successfully climbed the ranks of the civil service to achieve some local renown twice, in Memel and in Ulm. For a man who spent most of his life working for the government, he often found himself at legal odds with it.

Isolated in his cell, Fischer-Schweder was allowed visits and saw his wife and son with some regularity, though correspondence between them was closely monitored. A few weeks after his arrest, he wrote a lengthy missive to his “dear poor little wife” that blended

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<sup>93</sup> For an overview of the historiographical trajectory of Holocaust scholarship, see Michael Marrus, *The Holocaust in History* (Hanover and London: University Press of New England, 1987).

elements of self-defense, frustration, and sentimentality.<sup>94</sup> He insisted on his innocence and told Irmgard that these misfortunes befalling him were “a final test that God meant for us.” The persistence of these self-serving remarks suggested that Fischer-Schweder was writing as much for the censors as for his wife. More pragmatically, the letter addressed symptomatic problems of his imprisonment, requesting Irmgard to recharge his prison account so he could buy more Nes-Café and to buy him “one pair of long underwear because it’s ice-cold in the prison-issue pajamas.”

He also tried to treat this problem at its source and hired the Ulm-based law firm of Schmid, Weller, and Wild to appeal for his release. They worked on these appeals and sought to have the charges against him dropped. While they did not deny that Fischer-Schweder had participated in the shootings, they argued that he had been forced to do so and that he “would have risked his life and possibly even lost it” if he had refused to carry out these orders.<sup>95</sup> The appeal then referred to statements from Fischer-Schweder and others which suggested that “Böhme and not the defendant was responsible for the operations in Garsden and Krottingen.” A few days later they attempted to correct their statement, arguing that it was not Böhme but a Dr. Frohwann who was responsible.<sup>96</sup>

This argument amounted to a claim of *Befehlnotstand*, or a defense that Fischer-Schweder was forced to follow orders. This had become the standard postwar defense for Nazi criminality. The main assertion was that the defendant carried out crimes based on orders from superiors. Furthermore, the argument hinged on a counterfactual claim that to

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<sup>94</sup> Bernhard Fischer-Schweder to Irmgard Fischer-Schweder (2 June 1956), EL322, Bd.2, SL.

<sup>95</sup> Haftbeschwerde (8 May 1956), EL322 II, Bd.1, SL.

<sup>96</sup> Rechtsanwälte, Dr. H. Schmid, J. Weller, Dr. Wild to Landgericht Ulm – Strafkammer (11 May 1956), EL322 II, Bd.1, SL.

not follow orders would have meant incurring grave punishment. This defense forced prosecutors into the difficult position of having to disprove both assertions. As prosecutor Mettler noted in the days following the arrest, “It especially comes down to what would have happened to the accused [Fischer-Schweder] and Schmidt-Hammer, if they had not followed orders.”<sup>97</sup> The claim of *Befehlnotstand* also played off the sympathies and anxieties of the German public. The nation had an uneven relationship with the Nazi past and the idea of acting under compulsion and out of threat to self played well to postwar notions that even perpetrators had been victims of the Nazi dictatorship. Rounding up German men and putting them in prison for crimes they were allegedly forced to commit under threat of death did not sit well with many West Germans.

The idea of releasing a man accused of the murder of several hundred did not sit well with the court, however, and the appeal was denied. The decision noted that Fischer-Schweder “was suspected of at least taking part in the shootings,” and therefore he posed a significant flight risk.<sup>98</sup> The “main danger,” the ruling went on to argue, was that he would “hinder the investigation of the truth by influencing witnesses or the other responsible parties.” The decision set off a back-and-forth between Fischer-Schweder’s attorneys and the courtroom which resulted in dozens of appeals for his release over the years and months up through his trial. Their constant rejections caused him to chafe. He vented to his wife in November, “Sometimes I imagine that if I were sitting in a Soviet prison, I would have no

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<sup>97</sup> Dr. Mettler to Landespolizeidirektion Nordwürttemberg – Kriminalhauptstelle (16 May 1956), EL322, Bd.1, SL.

<sup>98</sup> Beschluss, Landgericht Ulm/D. – Strafkammer (14 May 1956), EL322 II, Bd.1, SL.

cause for surprise. But we are supposedly in the lawful part of Germany.”<sup>99</sup> He remained isolated in his cell for months carrying into years. He was never released.

### **Widening the Net**

Though the court did not accept Fischer-Schweder’s appeals to be released, the investigators did follow up on the names of other responsible parties that he offered, specifically Böhme and Dr. Frohwann. The search for these two individuals were the first efforts the investigators made following Nellmann’s memo to expand the trial. The search also illustrated some of the challenges that investigators faced in the months between Fischer-Schweder’s arrest and the indictments against all the defendants. Neither Böhme’s nor Frohwann’s name had been mentioned by any witnesses previous to the Fischer-Schweder interrogations, so they set about re-interrogating previous witnesses. Those interviewed offered very little, suggesting that Böhme may have been *Stapo* Tilsit leader and that he may have “died in the last days of the war.”<sup>100</sup> On Frohwann, they offered nothing.

With Böhme and Frohwann, the investigators encountered a new problem. To this point in the investigation, they had been able to obtain addresses and personal information from those already interrogated, but with Böhme and Frohwann, no one claimed to know much about their past behavior, let alone their present whereabouts. Even Böhme’s first name remained a mystery to the investigators.<sup>101</sup> Here they came face-to-face with the ongoing issues of postwar integration and demographic shifts – the very same issues that

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<sup>99</sup> Bernhard Fischer-Schweder to Irmgard Fischer-Schweder (8 November 1956), EL322 II, Bd.4, SL.

<sup>100</sup> Statement by Kurt Grau (18 June 1956), EL322 II, Bd.1, SL; Statement by Dr. Wilhelm Brindlinger (18 June 1956), EL322 II, Bd.1, SL; Statement by Georg Ebrecht (18 June 1956), EL322, Bd.1, SL.

<sup>101</sup> For a brief moment in June, they thought they had found their Böhme, a man with the first name of Herbert, but it was a false lead; see, Statement by Kurt Grau, marginalia commentary by Kriminalsekretär Stolzenberg (18 June 1956), EL322 II, Bd.1, SL.

Fischer-Schweder had been able to exploit to his advantage. Böhme and Frohwann may well have gone under the radar after the war, as Fischer-Schweder had, they may have died during the war, or they may have fled the country. As one of the investigators stated in July regarding Böhme, “Whether he is alive or residing in the Federal Republic is simply unknown.”<sup>102</sup> In the social frontiers of postwar West Germany, there were more ways for Nazis to hide than for the investigators to find them.

Despite these difficulties, the investigators persisted and, in the end, succeeded. Frohwann proved easier to locate, for he had not left a Salzburg cemetery for the past ten years, having committed suicide by hanging at war’s end.<sup>103</sup> Had he still been alive, the one-time leader of the Memel border police and SS officer no doubt would have found himself among the defendants in Ulm.<sup>104</sup> He, as others had and others would in the course of the trial, preferred death to postwar accountability. His was but the gravest response to avoiding justice. Böhme chose to hide in plain sight, but, as Fischer-Schweder had demonstrated, this did not necessarily make one easy to locate.

The investigators knew that they were pursuing in Böhme an individual involved in the SS who operated out of the town of Tilsit during the war, which was located not far from Memel. During their search, investigators had turned up more information on his war time activities, seemingly confirming Fischer-Schweder’s portrait of Böhme as the one who authorized these murders. Schüle contacted numerous municipal governments searching for

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<sup>102</sup> Report from Kriminalobersekretär Weide and Kriminalsekretär Opferkuch (13 July 1956), EL322 II, Bd.2, SL.

<sup>103</sup> Dr. Formanek, Landeszentralbüro der I.K.K., Kriminalpolizeiliche Abteilung, Generaldirektion für die Öffentlichkeit Sicherheit, Bundesministerium für Inneres, Republik Österreich to Bundeskriminalamt Wiesbaden (5 July 56), EL322 II, Bd.2, SL.

<sup>104</sup> For information on Frohwann’s activities in *Einsatzkommando Tilsit*, see: *Justiz und NS-Verbrechen*, #465.

any residents who fit Böhme's general description. When these turned up no results, he tried various veterans' organizations to see if he was registered or even still alive.

On August 20, 1956, their efforts were rewarded. A telegraph arrived to the investigators that noted "a Hans Böhme, b. 1.10.1909 in Magdeburg" was currently living in a suburb of the West German city of Karlsruhe.<sup>105</sup> This information matched the profile that investigators had put together. If this really was Hans-Joachim Böhme, the investigators had just located the man most responsible for the shootings of Garsden and elsewhere. On August 22, the prosecutors requested and received a warrant for his arrest.<sup>106</sup>

The next day in the middle of the afternoon, the police went to the bank in Karlsruhe where Böhme worked. The forty-six-year old came down to meet the detectives in a side-office near the main lobby. They asked Böhme where he was in 1941, to which he responded, "Tilsit." After "some further questions," the detectives were convinced "without a doubt" that this was their Böhme, and informed him that they had a warrant for his arrest. Böhme did not react adversely, but asked that he be allowed to gather some items from his desk and notify his superiors. Out of courtesy, they obliged.

Böhme, accompanied by two detectives, returned to his fifth-floor office, where he gathered his items and wrote a note to his director, which he then slid under the door. Böhme paused on the way back to the lobby and suggested that he needed to add something else to the letter. As he entered the office, Böhme "suddenly shut the door behind him and turned around towards the window, opened it, and had the suicidal intention to throw himself from

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<sup>105</sup> Ermittlungsverfahren (1 September 1956), EL322 II, Bd.4, SL.

<sup>106</sup> Haftbefehlantrag (22 August 1956), EL322 II, Bd.4, SL; Haftbefehl (22 August 1956), EL322 II, Bd.4, SL.

it.”<sup>107</sup> Thanks to the “quick reaction” of one of the detectives, Böhme was prevented from offing himself and was taken into custody.

After a second abortive attempt at suicide (this time jumping head first from the table of his cell), Böhme began to talk to the authorities. Strapped to a hospital bed, he had little choice otherwise.<sup>108</sup> He added details and new names to the investigation.<sup>109</sup> His arrest was the first since Nellmann decided to expand the case and Schüle joined the team. A major Nazi perpetrator, Böhme became a chief defendant, the highest-ranking authority put on trial for the shootings along the Memel border lands. If Fischer-Schweder was the defendant who clumsily sprang the trap, Böhme would be its biggest catch.

Böhme’s arrest came still relatively early in the investigation. Of the ten men who would eventually find themselves indicted in June 1957, half of their names were not yet even known to the investigators. Böhme’s arrest added impetus to the investigations. While detectives crisscrossed Germany conducting interviews and interrogations, the prosecutors Mettler and Schüle worked on developing the case in greater depth. Mettler spent time in the recently opened *Institut für Zeitgeschichte* (Institute for Contemporary History) in Munich, which housed a wealth of information on the Third Reich period and was one of West Germany’s first professional centers for academic research devoted to this aspect of its history.<sup>110</sup> For his part, Schüle pored over the records in the Berlin Document Center. He also finessed relationships with various organizations, such as the new Israeli memorial

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<sup>107</sup> Ermittlungsverfahren (1 September 1956), EL322 II, Bd.4, SL.

<sup>108</sup> Opferkuch, Landeskriminalamt BW to Staatsanwaltschaft Ulm/D., Dr. Mettler (1 September 1956), EL322 II, Bd.4, SL.

<sup>109</sup> Statement by Hans-Joachim Böhme (1 October 1956), EL322 II, Bd.4, SL.

<sup>110</sup> John Gimbel, “The Origins of the Institut für Zeitgeschichte: Scholarship, Politics, and the American Occupation, 1945-1949,” *The American Historical Review*, v.70, no. 3 (April 1965), 714-731.

group Yad Vashem, various United States military archivists, and German veterans' organizations, in the process finding new perpetrators and even a number of Jewish survivors from Lithuania.

While these efforts led to many new arrests, the investigation did not always go as hoped. One witness, Paul Gerber – who had made claims about the “terrible” nature of civilian resistance to Germans in Garsden but denied being a part of the murders – committed suicide only a week after his interrogation.<sup>111</sup> In his suicide note, he bore the markings of instability, complaining incessantly about his “nerves.” He wrote that since the interrogation, “I can’t find any rest.” He found it unacceptable that he “should be a witness in a mass murder trial,” worrying that “no one will believe me...that I had nothing to do with these things.”<sup>112</sup> Though unclear whether Gerber would have been formally charged and arrested for crimes in Lithuania, he found that possibility too great a risk to bear.

The prosecutors also ran into legal debates. One of the would-be defendants, a man named Wolfgang Ilges from Cologne, found himself in the middle of a jurisdictional battle that the Ulm prosecutors would ultimately lose. Ilges had been an SS officer under Böhme and participated in at least one shooting. However, the courts decided that Ilges’ “relationship with Fischer-Schweder and the others could not be proven,” and so his case was handed over to the Cologne district attorney’s office.<sup>113</sup> A number of the other defendants in the Ulm investigation were transported during the course of the Ilges trial in Cologne to

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<sup>111</sup> Statement by Paul Gerber (11 July 1956), EL322 II, Bd.2, SL.

<sup>112</sup> Paul Gerber, note (19 July 1956), EL322, Bd.2, SL.

<sup>113</sup> Staatsanwaltschaft [Köln] (27 March 1957), EL322 II, Bd.112, SL.

testify.<sup>114</sup> He was sentenced later in 1957 to four years imprisonment as an accessory in the murder of over one hundred Jews in Augustowo, a Lithuanian shooting site.<sup>115</sup>

These difficulties aside, the investigation moved towards completion. By the spring of 1957, the case against the participants of the mass executions along the border strip in Lithuania sixteen years earlier was nearly complete. Though they had run across dozens of individuals who no doubt bore some war crime guilt, the prosecutors decided to limit the case in question to ten defendants.<sup>116</sup> Mettler and Schüle were working on the massive indictments against these ten, when a combination of exhaustion, stress, and pressure caused Mettler to buckle. Citing a “neuro-vegetative disorder,” Mettler stepped down from the investigation on April 27.<sup>117</sup> By the end of July, Schüle completed the indictments alone and the case was ready for trial.

### **The Crimes, the Criminals**

And so it was that on the morning of July 5, 1957, the prosecutors found themselves before a packed room of journalists, showcasing the fruits of the investigation. At ten o’clock in the morning in the offices of the Ulm district attorney, Nellmann and Schüle announced the Ulm case to the world.<sup>118</sup> Beyond informing the public, the indictments were also the first time that Fischer-Schweder learned the full scope of the proceedings he had

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<sup>114</sup> Landgericht, Untersuchungsrichter Ulm/D. to Staatsanwaltschaft bei den Ober. Schüle (26 April 1957), EL322 II, Bd.88, SL; Staatsanwaltschaft bei den Ober., Schabel to Untersuchungsrichter Ulm/D (11 April 1957), EL322 II, Bd.105, SL.

<sup>115</sup> *Justiz und NS-Verbrechen*, #444.

<sup>116</sup> Verfügung, Schüle (25 June 1957), EL322 II, Bd.12, SL.

<sup>117</sup> Generalstaatsanwalt to the Justizministerium Baden-Württemberg (27 April 1957), EL322 II, Bd.304, SL.

<sup>118</sup> Schüle to Redaktion (3 July 1957), EL302 I, Bd.305, SL.

blustered into existence. Prepared over the previous months principally by Schüle, the 212-page indictment document read more like a formal work of history than a legal document.<sup>119</sup> It synthesized the interviews, documents, and other pieces of evidence gathered over the previous years into a reconstruction of the Nazi regime, mechanisms of the Holocaust, and various mass shootings along a narrow border-strip of land in Lithuania during a few summer months in 1941.

The indictments began large, with the macro-level decision-making processes that defined the Nazi regime in general and the invasion of the Soviet Union in particular. The focus increasingly narrowed in on the northern reaches of this war. From the Baltic States it zoomed closer onto Lithuania and onto its Western border, abutting Memel and Eastern Prussia. Eventually, the prosecutors settled on a region just twenty-five kilometers across, a region along which the ten defendants of the trial had personally carried out the executions of at least 5,186 Jewish men, women, and children from late June to August 1941.<sup>120</sup>

These murders, the indictment went on, were the work of *Einsatzkommando* Tilsit, a unit to which all the defendants had at some point belonged. This terminology was not foreign to the German public. Though the 1945-1946 trial of Nazi elites before the International Military Tribunal at Nuremberg received most attention, the follow-up 1948 *Einsatzgruppen* trial before the American Military Tribunal in the same courtroom also found notice in Germany. The *Einsatzgruppen* were four groups assigned letters – A, B, C, and D – scattered north-to-south along the invasion routes into the Soviet Union in 1941. These

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<sup>119</sup> Facts and figures for this section, unless otherwise noted, come from the indictment. See, Anklageschrift (25 June 1957), EL322 II, Bd.13, SL.

<sup>120</sup> Figure comes from Anklageschrift, but one of the press stories the following cited 5,502 murders, though it is unclear what figure this represents. It is possible that the 5,186 refers to what the investigators believed *Einsatzkommando* Tilsit was solely responsible for versus several hundred other murders that the defendants may have participated in while in the service of other units. See, Anklageschrift, 7; “‘Verwaltungsmassenmord’ vor dem Schwurgericht,” *Schwäbische Donau-Zeitung*, 6 July 1957.

groups were then subdivided into smaller squads, or *Einsatzkommandos*. The officer cadres of the *Einsatzgruppen* consisted early on of hardened SS men, ideologically indoctrinated with Nazi racial prejudice to sweep through newly occupied Soviet lands and clear them of dangerous elements. Typically claiming military need, they murdered intellectuals, communist leaders, and Jewish men in the beginning of the invasion. By August, they no longer hid behind pretence of military necessity, and began to murder Jewish women and children. The *Einsatzgruppen* were responsible for the murder of approximately of 500,000 to 800,000 Jews by the end of 1941 alone.<sup>121</sup>

In the postwar trials of selected *Einsatzgruppen* officers, emphasis focused on the elites. This meant that the typical profile of an *Einsatzgruppen* officer became, for many Germans, a career SS man, who was motivated by the Nazi ideology of racial struggle to massacre Europe's Jews. These trials therefore did not raise the issue of "ordinary German" complicity in the crimes of the *Einsatzgruppen* because only hardened SS-officers were tried, not rank-and-file members. Such a view was not wholly inaccurate, but it had a compartmentalizing effect on how Germans interpreted the mechanisms of the Holocaust. Those responsible for it, the camp guards and members of the *Einsatzgruppen*, were seen as hardened Nazis and aberrational Germans.

In contrast, the *Einsatzkommando* Tilsit unit was by and large not comprised of SS ideologues. In fact, significant differences separated Tilsit from the dominant view of *Einsatzgruppen*. The unit's name itself suggested such. Most units had numbered names such as *Einsatzkommando* 1a, but the defendants' came from the town in which it was stationed. Atypically, *Einsatzkommando* Tilsit was created the day of the invasion as an *ad*

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<sup>121</sup> Christopher R. Browning and Jürgen Matthäus, *The Origins of the Final Solution, 1939-1942* (Lincoln.: University of Nebraska Press, 2004), 244.

*hoc* execution squad. Its membership largely consisted of randomly recruited rank-and-file police officers, civil servants, security forces, and border guards. Few were hardened Nazis; many were not Nazis at all. Yet, within a day they went from policemen to Holocaust perpetrators. If the *Einsatzgruppen* trials in Nuremberg brought the officers' crimes to attention, the Ulm trial had the potential to demonstrate the complicity of the rank-and-file, the ordinary Germans.<sup>122</sup>

But therein lay the catch. Although the average *Einsatzkommando* Tilsit member was not exceptionally motivated to carry out racial warfare, the average *Einsatzkommando* Tilsit member was not listed as a defendant in the Ulm case. The prosecutors were hamstrung by the West German strict definition of murder. Therefore they had the greatest chance of a successful conviction if they tried only those members who were ideologically motivated by anti-Semitism, those who volunteered to kill, those who went out of their way to kill innocent civilians. Earlier, when Schüle was finishing the writing of the indictments, he was forced to conclude that fifteen other individuals, former members of *Einsatzkommando* Tilsit all, would not be included in the proceedings.<sup>123</sup> Despite the massive reorganization of the investigation around the crimes, this would not be a trial of Tilsit after all, but a trial of its worst members.

In this way, the message that the indictments conveyed perpetuated dominant conceptions of Holocaust perpetrators as atypical Germans. The indictments were forced to point out the specific transgressions of each of the men. These details were not included

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<sup>122</sup> For recent scholarship on *Einsatzkommando* Tilsit, see Jürgen Matthäus, "Jenseits der Grenze," *Zeitschrift für Geschichtswissenschaft*, v.44, no.2. (1996), 101-117; and Konrad Kwiet, "Rehearsing for Murder: The Beginning of the Final Solution in Lithuania in June 1941," *Holocaust and Genocide Studies*, v.12, no.1, (Spring 1998), 3-26.

<sup>123</sup> Verfügung, Schüle (25 June 1957), EL322 II, Bd.12, SL.

because they were salacious or perversely intriguing. Rather, these facts, more so even than the fact that each of these men participated in mass murder, allowed the investigators to make their cases. But because this necessary focus emphasized extreme behavior, these defendants fit the expected profile of a Nazi criminal. They were the dregs of the murder squad: excessive, violent, racist, and above all aberrational.

They were, more specifically, Bernhard Fischer-Schweder, Werner Schmidt-Hammer, Hans-Joachim Böhme, Werner Hersmann, Edwin Sakuth, Werner Kreuzmann, Harm Willms Harms, Gerhard Carsten, Franz Behrendt, and Pranas Lukys, alias Jakys. As the remainder of this story concerns the prosecution of these men, an introduction to their pasts, how they escaped trial for so long, and what they were accused of will be useful.

The first defendant was Bernhard Fischer-Schweder. The charges against him did not become crystallized until the indictments. As Police Director in Memel, he was accused of volunteering an officer, Werner Schmidt-Hammer, and twenty of his own men to join the *Einsatzkommando*. Moreover, he offered to carry out the shootings in four different sites, “even though he had only been asked by the defendant Böhme to assign men to secure the shooting sites and guard the prisoners.”<sup>124</sup> Fischer-Schweder himself was present at several of the executions and was accused of giving the order to shoot at the sites where his own men of the *Schutzpolizei* were the executioners. He was accused of the murder of 711 civilians.<sup>125</sup>

Second, Werner Schmidt-Hammer was a fairly straightforward defendant, as he admitted to carrying out the orders to lead the firing squads on at least four occasions. More difficult to parse out was the motivation of this optometrist. Of the defendants, he was the only never to have joined the Nazi party, but was drafted into service in the *Schutzpolizei* in

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<sup>124</sup> Anklageschrift, 9.

<sup>125</sup> Ibid., 15.

Memel.<sup>126</sup> After the war, he omitted mention of his participation in mass murder, but did spend time in a prisoner of war camp before returning to optometry. Though the second named defendant of the case, prosecutors deemed him a minimal flight risk, and he was the last to be arrested.<sup>127</sup> He was accused of accessory to murder of several hundreds.

Third, Hans-Joachim Böhme was one of the two main war criminals put on trial in the case. He had joined the Nazi party shortly after it came to power in 1933 and the SS several months later. Seemingly opportunistic in his motivations, he worked his way up the party ranks and managed to limp his way in the public sphere to a jurist degree.<sup>128</sup> By 1941, he led the *Staatspolizei* in Tilsit and had reached the rank of *SS-Hauptsturmführer*. The indictment alleged that in June 1941, Dr. Stahlecker, who was the head of the entire *Einsatzgruppen A* and died later during the war, asked Böhme and the defendant Werner Hersmann “to organize and lead *Einsatzkommando Tilsit*.” Böhme took to the task and held the post until the unit was disbanded in October 1941. He was “personally involved in most shootings.”<sup>129</sup> After the war, he hid his Nazi membership and worked in agriculture for a number of years before using his jurist degree to find his post at the bank. He was accused of the murder of 5,108 civilians.

Fourth, Werner Hersmann was perhaps the most ideologically motivated and dedicated Nazi of the ten. Unswervingly loyal, unendingly anti-Semitic, and unrepentant to the end, Hersmann according to the indictment was “along with Böhme responsible for the

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<sup>126</sup> *Justiz und NS-Verbrechen*, #495, 18.

<sup>127</sup> *Anzeige* (27 June 1957), EL322 II, Bd.103, SL.

<sup>128</sup> He received the passing mark of “sufficient”; see, *Justiz und NS-Verbrechen*, #465, 19.

<sup>129</sup> *Anklageschrift*, 10.

actions of *Einsatzkommando* Tilsit in their entirety.”<sup>130</sup> Born in 1904 in northwest Germany, he joined the Nazi party in 1930, the SS a year later. He became leader of the SD in Tilsit, and along with Böhme created the *Einsatzkommando* unit. During the selections for one execution, he ordered – against protests by fellow officers – a Jewish doctor who was treating wounded German soldiers to be taken and shot. After the war, Hersmann never hid his Nazi affiliation. After time in a POW camp, he was tried for crimes committed later in the war (he had been reassigned to *Einsatzgruppen* D) and spent the early 1950s in prison.<sup>131</sup> In 1955, he began work for the quasi-clandestine organization *Stille Hilfe* (Silent Aid), whose primary aim was to help former Nazis escape postwar justice.<sup>132</sup> Like Böhme, Hersmann was accused of the murder of 5,108 civilians.

Fifth, Edwin Sakuth was born in 1909 in Tilsit. He lived on the eastern border of Germany and spent his youth attending a *Volksschule* (German-language elementary school) in the then-Lithuanian city of Memel. In 1931, he joined the Nazi party and in 1937 the SD.<sup>133</sup> By the outbreak of war with the Soviet Union, he was put in charge of the Memel SD post, which operated under Hersmann in Tilsit. He took part in at least four *Einsatzkommando* Tilsit shootings. Early in the summer, when the policy was to murder Jewish men only, Sakuth chafed at the notion of keeping women and children alive, as they

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<sup>130</sup> *Ibid.*, 11.

<sup>131</sup> For more on this trial, see: *Justiz und NS-Verbrechen*, #241.

<sup>132</sup> *Justiz und NS-Verbrechen*, #465, 20. Little reliable information on the *Stille Hilfe* organization has been published. Though it began as a means of secreting away prominent Nazis, the organization seems to exist today as a much more overt neo-Nazi organization. Oliver Schröm and Andrea Röpke, *Stille Hilfe für braune Kameraden. Das geheime Netzwerk der Alt- und Neonazis. Ein Inside-Report* (Berlin: Ch. Links Verlag, 2001).

<sup>133</sup> *Justiz und NS-Verbrechen*, #465, 21-22.

were only “unnecessary mouths to feed.”<sup>134</sup> He spent two years after the war in a camp for his Nazi membership, at which point he moved to West Germany. He was arrested for the accessory to murder of several hundred.

Sixth, Werner Kreuzmann, similar to Sakuth, spent his life in the eastern border region of Prussia. He did not join the SS until later into the Nazi regime, but when he eventually did, he found himself working under Böhme in Tilsit at war’s outbreak.<sup>135</sup> He participated in several shootings and was accused of leading the selection of victims on at least one occasion.<sup>136</sup> Interned for several years following war’s end, Kreuzmann resettled in northern Germany, where he worked in the private sector. He was accused of accessory to murder of several hundred.

Seventh, the unfortunately-named Harm Willms Harms was the oldest of the ten defendants, born in 1892 in northwest Germany. He joined the army in World War I and transitioned to the *Freikorps* after. Harms worked in the *Kripo*, or detective office, in Hamburg until his unit, and he along with it, was brought into the *Gestapo* in 1937. By 1941, he had moved to Tilsit and took part in several of the earliest shootings of *Einsatzkommando* Tilsit. His postwar story paralleled Fischer-Schweder’s. Though interned briefly for *Gestapo* membership, he became a shoemaker for a few years after the war until Article 131 offered him the possibility of claiming his lost pension. During his reapplication, authorities discovered that he joined the Nazi party in 1933 and rejected it. However, and this points up the fragile conditions that led to Fischer-Schweder’s collapse, the matter did not go beyond

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<sup>134</sup> Quote was originally mentioned by Pranas Lukys, see: Statement by Pranas Lukys (28 February 1957), EL322, Bd.10, SL; included in Anklageschrift, 12.

<sup>135</sup> *Justiz und NS-Verbrechen*, #465, 22-23.

<sup>136</sup> Anklageschrift, 12.

this, and Harms was not bothered until arrested in 1956.<sup>137</sup> He was accused of accessory to murder of several hundred.

Eighth, Gerhard Carsten, born in East Prussia in 1909, worked for *Schupo* Tilsit in the 1920s until he joined the German army in the mid-1930s. In 1937, he joined the Party and by the end of the decade returned to Tilsit, this time in the service of the *Staatspolizei*.<sup>138</sup>

Carsten took part in several shootings and voluntarily reported and arrested Jews, even when “he was fully aware of what their fate would be.”<sup>139</sup> He spent the end of the war through 1950 in a British camp. Despite imprisonment, he secured a job as a police detective in West Germany from 1953 until his arrest in 1957.<sup>140</sup> He was accused of accessory to murder of several hundred.

Ninth, Franz Behrendt, the youngest of the defendants, was born in 1912. He worked in the border police near Memel at the outbreak of war and had been a party member since 1939 and an SS officer shortly thereafter.<sup>141</sup> He took part securing the area during shootings, and Behrendt’s knowledge of Lithuanian made him an important intermediary in disseminating Böhme’s orders to Lithuanian collaborators, such as the defendant Pranas Lukys.<sup>142</sup> After a short time interned at war’s end, Behrendt spent the days until his 1957 arrest working as an accountant near Hamburg. He was accused of accessory to murder of several hundred.

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<sup>137</sup> *Justiz und NS-Verbrechen*, #465, 23-24.

<sup>138</sup> *Ibid.*, 24-25.

<sup>139</sup> *Anklageschrift*, 13.

<sup>140</sup> *Justiz und NS-Verbrechen*, #465, 25.

<sup>141</sup> *Ibid.*, 25.

<sup>142</sup> *Anklageschrift*, 13-14.

Tenth and last, Pranas Lukys, alias Jakys, was the only non-German defendant. Lukys was born in 1900 into Russian-controlled Lithuania. After World War I, Lithuania gained independence and Lukys became an ardent nationalist, joining the nascent military.<sup>143</sup> Following Soviet reoccupation in 1939, Lukys fled to the Nazi-controlled region near Memel. When the Germans invaded in June 1941, Lukys returned. As a “longtime committed opponent of communism,” Lukys eagerly worked with Nazi authorities, denouncing all Jews and communists known to him. He earned Böhme’s attention and was put in charge of carrying out a number of arrests and executions.<sup>144</sup> After the war, he fled into West Germany. His family later moved to the United States, but Lukys stayed on in Germany. At the time of his arrest, he was living off welfare. He was accused of accessory to murder of several hundred.

These were the men of Ulm. They came from the backwaters of Prussia, the urban centers of the industrial Ruhr, the Lithuanian marches of the Baltic. They were police officers, doctors, jurists, and career Nazis. The ten, strangers before the war, found their histories intersecting during the summer of 1941. With war’s outbreak, they joined together from various towns, units, and organizations to form the leadership of *Einsatzkommando* Tilsit. During those three months, they carried out a program of mass murder that spanned only twenty-five kilometers but resulted in the deaths of an estimated 5,108. Thereafter, their histories again diverged. Nearly all of them made the decision to relocate after the war, either by force, fear of the Soviets, or a desire to cut ties with their pasts. These decisions led them all to West Germany. There they found a society in disarray and new possibilities for reintegration. Each took advantage of his newfound anonymity, and each manipulated his

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<sup>143</sup> *Justiz und NS-Verbrechen*, #465, 26-27.

<sup>144</sup> *Anklageschrift*, 14.

past for the gain of the present. In Ulm on June 25, 1957, their histories once again converged.

### **History Lessons in the Courtroom**

When the courtroom's doors opened and the trial against Fischer-Schweder and nine others began, nearly a year had passed since the indictments. The publicity of the indictments had brought in new leads for the investigators to pursue. Revisions were made to the charges against the men, and more precise details on the number of their victims emerged. Scores of witnesses were expected, and their dates had to be set and travel arrangements made. Additionally, each of the ten men retained his own counsel, and so the wall of paper thrown up by ten law firms created constant legal obstacles. But by April 25, 1958, the logistics were organized and the largest German trial of the postwar period started.

At eight o'clock that morning, the defendants began to arrive. The courthouse sat to the north of the historic center of Ulm and not a mile from where Fischer-Schweder had spent the previous two years in a cell. Outside of the imposing red-brown courthouse façade, journalists and photographers lined the steps that day waiting to see the men as they entered. For a quarter of an hour, the defendants were brought past them and into the courtroom, where they were seated – Böhme, Schmidt-Hammer, Sakuth, Carsten, and Kreuzmann to the left, Fischer-Schweder, Lukys, Harms, Hersmann, and Behrendt to the right. They faced the center of the room, in profile to the spectators, attorneys, six men of the jury, and the judge. The men turned their faces from cameras and held up newspapers as they walked in.<sup>145</sup> In the front of the room the accumulated investigative material was stacked, by this point

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<sup>145</sup> "Gestern größter politischer Nachkriegsprozeß in Ulm eröffnet," *Schwäbische Donau-Zeitung*, 29 April 1958.

comprising several thousand pages and twelve bound volumes. Next to this was a map of the border regions of Germany and Lithuania as of the summer of 1941. Littering the map were dots plotting execution sites.<sup>146</sup> The last time these men had seen one another, they were carrying out these murders.

A member of Schüle's team made the opening remarks. He explained that this was not "a show trial or a sensationalistic trial." Rather the trial was "better suited for inner reflection and contemplation," as it was intended to explore "times of profound moral debasement and of full neglect of human worth." The prosecutors from the outset were explicit in their overtures not just to the members of the jury, but members of the German public. They conceived of the trial as serving a broad educative function. They were speaking to misconceptions about the Nazi past held in 1958. There were aspects, they felt, that had not been fully considered and not yet reconciled.

After the prosecutors made their opening statement, Fischer-Schweder took the floor. The last time he had defended himself in court he was hoping for reinstatement as camp director; now, he would consider avoiding life in prison a successful outcome. He gave his stock defense for his actions, describing himself as a disillusioned member of the Weimar generation. "Party politics was completely broken," he offered as explanation for his support of Nazism. He avoided mention of shootings, as he had no intention of doing the prosecutors' job for them. From the attorneys' table, Schmidt-Hammer's lawyer was taking down his impressions of the defendants. On Fischer-Schweder and his introductory remarks, the lawyer noted that he was "the type of person who would not tolerate anything from his subordinates."<sup>147</sup> He embodied the unrepentant Nazi, noted more for wearing sunglasses and

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<sup>146</sup> "Auf Suche nach Wahrheit und Gerechtigkeit," *Schwäbische Donau-Zeitung*, 29 April 1958.

doodling Stars of David in the courtroom than affecting any semblance of remorse.<sup>148</sup>

Fischer-Schweder's statement concluded the first day. Over the course of the week, each defendant entered his own opening remarks.<sup>149</sup>

For the first week after the opening statements, the defendants took the stand to testify. One by one they turned on each other, attempting to diminish their own roles by increasing those of the others in the shootings. The prosecutors' success in this regard must be attributed at least in part to the strict isolation in which the men had all been kept since their arrests. No two men shared the same prison, and so they were unable to coordinate their stories in any way prior to their testimony.<sup>150</sup> The testimony tended to focus the responsibility on the three main defendants, Böhme, Hersmann, and Fischer-Schweder. Sakuth put blame on Fischer-Schweder, Hersmann did himself in, and when Harms took the stand it proved a "black day" for Böhme.<sup>151</sup> But in the end, their refusal to hang together proved that they would all hang individually.

On May 9, the first day after the opening statements, Fischer-Schweder made an outburst in which he accused the courtroom of failing to meet the standards of "objectivity" and presuming innocence before guilt. He evidently had not appreciated comments Sakuth

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<sup>147</sup> Dr. Rolf Nissen, notes (28 April 1958), H Nissen, SU.

<sup>148</sup> "Nazi Repents Role in Jews' Mass Killing", *New York Post* (5 August 1958), EL302 I, Bd. 305, SL. It should be noted that the repentant Nazi here is not Fischer-Schweder, but Schmidt-Hammer, a view shared widely among the press. Indeed, the court as well seemed to feel that Schmidt-Hammer had indeed showed sufficient regret and was given the lightest sentence of the defendants.

<sup>149</sup> Böhme, Hersmann, Sakuth, Kreuzmann, Harms, and Schmidt-Hammer entered their statements on April 29, and Carsten, Behrendt, and Lukys the following day. See, "'Der SD war Kämpfer gegen die Korruption,'" *Schwäbische Donau-Zeitung*, 30 April 1958, and "'Vorsätzlich und mit Überlegung getötet,'" 1-2 May 1958.

<sup>150</sup> Vogelmann to Herrn Vorstand des Gerichtsgefängnisses, Ludwigsburg (5 October 1957), EL322 II, Bd.14, SL.

<sup>151</sup> "Fischer-Schweder fiel aus der Rolle," *Schwäbische Donau-Zeitung*, 8 May 1958; "SS-Führer stritten um Judenerschießungen," *Schwäbische Donau-Zeitung*, 13 May 1958; "13. Mai – schwarzer Tag für Böhme," *Schwäbische Donau-Zeitung*, 14 May 1958.

had made regarding his alcoholism, and so directed his anger at the courtroom. The presiding judge did not take kindly to the accusations. “Mr. Fischer-Schweder,” he said, “you are not leading these proceedings; you are here as a defendant before the court. We make efforts to be objective, but we will not tolerate you interfering with the way these proceedings are conducted!” Fischer-Schweder, whom the papers dubbed “l’enfant terrible” of the trial for the incident, had no choice but to sit back and hear the presentation of the case against him.<sup>152</sup>

On the fifteenth day of the trial, the witness testimony began. In all, 172 were called to the stand or had their statements read.<sup>153</sup> They represented a gamut of perspectives on *Einsatzkommando* Tilsit, from perpetrator to victim to expert. As with the indictments, the witness statements began at the high level and worked their way down to the individual shootings. During the first days of the witness statements, former leaders of the *Einsatzgruppen* explained how these groups were formed and how Tilsit became a post-invasion solution to a manpower shortage.<sup>154</sup> Military leaders and veterans of Operation Barbarossa were to describe the actual fighting involved in Lithuania. They put an end to the defendants’ claims that partisans were targeted; as one officer recalled, “At this time [in the summer of 1941] there was not yet any partisan movement in Lithuania.”<sup>155</sup> The prosecutors used a strategy aimed at debunking the lies the defendants had peddled in their opening remarks.

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<sup>152</sup> “Fischer-Schweder fiel aus der Rolle,” *Schwäbische Donau-Zeitung*, 8 May 1958.

<sup>153</sup> “Angeklagte bekennen einmütig ihre moralische Schuld,” *Schwäbische Donau-Zeitung*, 19 August 1958.

<sup>154</sup> “Diese Repressalie ist einmalig in der Welt,” *Schwäbische Donau-Zeitung*, 23 May 1958.

<sup>155</sup> ““In Litauen gab’s damals keine Partisanen!”” *Schwäbische Donau-Zeitung*, 29 May 1958; “Nächtliche Hilfeschreie in Riga,” *Schwäbische Donau-Zeitung*, 30 May 1958; ““Eine Schuld, die nicht vergessen werden kann!”” *Schwäbische Donau-Zeitung*, 31 May 1958; and Dr. Rolf Nissen, notes (29 May 1958), H Nissen, SU.

Over two months into the trial, the Nazi propensity for paperwork caught up with the defendants. Fischer-Schweder had already been dealt harm by his letters heaping praise on Himmler for noticing his birthday. Hersmann was not aided by photographs that turned up of him and Hitler.<sup>156</sup> But the presentation of the *Ereignismeldungen UdSSR* (operation reports USSR) towards the end of June trumped them all. These reports had been used in the Nuremberg trials against the *Einsatzgruppen* but were largely forgotten by the mid-1950s. Mettler first came across them in the fall of 1956 during research at the *Institut für Zeitgeschichte* in Munich.<sup>157</sup> By the beginning of 1957, the Ulm prosecutors received the remaining reports from the United Restitution Office in Frankfurt, an Allied-inspired organization for material compensation of Holocaust survivors.<sup>158</sup>

The *Ereignismeldungen* were daily reports filed by the *Einsatzgruppen* during the course of the war with the Soviet Union. Generally not longer than five- to ten-pages, each consisted of the recent actions of the *Einsatzkommandos* as reported to their respective *Einsatzgruppen*. These reports were then synthesized by Heydrich's SS men at the *Reichssicherheitshauptamt* (Reich Security Main Office) in Berlin, from where they were sent to Nazi and SS leaders. In their content, these amounted to a list of towns, cities, and villages in the war zones of Eastern Europe and a corresponding list of civilians executed. These were the records of the Holocaust as perpetrated by the *Einsatzgruppen*.<sup>159</sup>

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<sup>156</sup> Photograph, undated, EL322 II, Bd.73, SL.

<sup>157</sup> Mettler to Schüle (28 November 1956), EL322 II, Bd.304, SL.

<sup>158</sup> Landeskriminalamt Baden-Württemberg to Staatsanwalt Ulm, Mettler (10 January 57), EL322 II, Bd.102, SL.

<sup>159</sup> For more information on the *Ereignismeldungen*, see Yitzhak Arad, et al, *The Einsatzgruppen Reports: Selections from the Dispatches of the Nazi Death Squads' Campaign against the Jews in Occupied Territories of the Soviet Union, July 1941-January 1943* (New York: Holocaust Library, 1989).

These documents provided crucial contemporary evidence against the defendants. Since these were the figures that Böhme and Hersmann would have reported to the *Einsatzgruppe A* leadership, they were tantamount to a confession to mass murder. *Ereignismeldung* #14, dated July 6, 1941, listed the first murders carried out by *Einsatzkommando Tilsit*. It read:

Three large cleansing operations [*Säuberungsaktionen*] were carried out by Tilsit and the following were shot

in Garsden	201 Persons
in Krottingen	214 Persons
in Polangen	111 Persons. <sup>160</sup>

Just five days later, *Ereignismeldung* #19 reported an additional eight Tilsit “cleansing operations,” which brought the number of Tilsit murders in only a three-week period to 1,743 people.<sup>161</sup> A week later the total rose to 3,302.<sup>162</sup> When the *Ereignismeldungen* were presented before the court in Ulm, the newspapers expressed shock at this “bookkeeping of death.”<sup>163</sup> Some even reprinted select copies of the reports.<sup>164</sup>

Though valuable documents, the reports only went so far in making the prosecutors’ case. The *Ereignismeldungen* contained only the key particulars of the more detailed reports sent from the *Einsatzkommandos* to the *Einsatzgruppen*. The content of those original reports filed by Böhme and Hersmann, which ostensibly would have described in their own

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<sup>160</sup> *Ereignismeldung* UdSSR Nr.14 (6 July 1941), EL322 II, Bd.80, SL.

<sup>161</sup> *Ereignismeldung* UdSSR Nr.19 (11 July 1941), EL322 II, Bd.80, SL.

<sup>162</sup> *Ereignismeldung* UdSSR Nr.26 (18 July 1941), RG10.036\*01; Acc.1991.A.066, United States Holocaust Memorial Museum (USHMM).

<sup>163</sup> “Mord statt Umsiedling,” *Frankfurter Allgemeine Zeitung*, 22 July 1958; “Die Buchhaltung des Todes,” *Schwäbische Donau-Zeitung*, 27 June 1958.

<sup>164</sup> “Die Buchhaltung des Todes,” *Schwäbische Donau-Zeitung*, 27 June 1958; “Tod als ‘Meldung,’” *Frankfurter Rundschau*, 4 July 1958.

words the nature of the executions, the provenance of the orders, and the carrying out of these orders, was unknown. Despite the investigators' efforts, these reports could not be located in 1958.<sup>165</sup>

The inclusion of the *Ereignismeldungen* was part of a wider strategy of contextualizing the murders. The prosecutors used contemporary statements and orders by Nazi elite, including Himmler, Göring, and Stahlecker, the head of *Einsatzgruppe A*. These types of records and evidence played an ambiguous role for the prosecutors. On the one hand, by showing that the defendants were carrying out murder on behalf of the state, the case against them for murder became harder to make. On the other hand, from the perspective of making clear the nature of the crimes and educating the public on the Nazi past, recreating the structures and decision-making processes of the Nazi regime effectively demonstrated the widespread complicity of many Germans in the Holocaust.

Despite the meticulous planning and preparation before the trial, it was not without incident. Early on, court adjourned one afternoon because of Schmidt-Hammer suffered a heart attack, though he returned not long after.<sup>166</sup> In mid-June, a witness and former SD officer was arrested for perjury in the courtroom.<sup>167</sup> More seriously, after giving self-incriminating testimony, former *Gestapo* Tilsit member Arthur Genath was arrested and formally charged.<sup>168</sup> The next day, on July 5, 1958, he scrawled a note stating that he could

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<sup>165</sup> As early as 1956, investigators were convinced that these reports existed. Schüle had tried to find the documents in the Berlin Document Center and Mettler in the *Institut für Zeitgeschichte* but to no avail. Nellmann wrote to a US military archive to see if these might be filed in US archives, but the response came back negative. See, Nellmann to Amerikanische Generalkonsulat, Mr. Irvin (15 December 1956), EL322 II, Bd.304, SL.

<sup>166</sup> "Erster Zwischenfall im Einsatzkommando-Prozeß," *Schwäbische Donau-Zeitung*, 4 June 1958.

<sup>167</sup> "Einer hat den Bogen überspannt," *Schwäbische Donau-Zeitung*, 11 June 1958.

“no longer bear the shame” of his past.<sup>169</sup> Genath then took his own life, “possibly by ingesting poison.”<sup>170</sup> The media attention surrounding his death forced some questionable characters to raise their voices. Letters were sent to the prosecutors, which blamed them for Genath’s death. One man, who signed as “SS-*Hauptsturmbannführer*,” wrote, “The judges of today will be the defendants of tomorrow! GERMANY AWAKE!!!!!! WE ARE TAKING REVENGE!!!”<sup>171</sup>

Such outbursts were not uncommon during the trial. Over its course, several hundred letters came into the offices of those associated with the trial from the general public. Most of these, as with the letter urging Nazi revanchism, came from the far-right spectrum of Nazi apologetics. They expressed anger at the German courts for prosecuting fellow Germans, labeling the prosecutors as traitors. To some extent, one might expect the most vocal commentators on a trial to be from those who opposed it. There were other letters, though, from citizens who were genuinely introspective about the implications of this trial. Some appreciated that new crimes were coming to light, others that the trial might set the courts off on a slippery slope of overly-aggressive investigations. These responses showed remarkable geographic diversity. Though not surprising that many of these were hostile to the proceedings, that these responses came from all across Germany is revealing. They suggest that the Ulm trial found widespread interest throughout the country.

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<sup>168</sup> “Kriminalbeamter im ‘Einsatzkommando-Prozeß’ festgenommen,” *Schwäbische Donau-Zeitung*, 5 July 1958;

<sup>169</sup> Arthur Gennat [sic] (5 July 1958), EL322 II, Bd.17, SL.

<sup>170</sup> Generalstaatsanwalt to Innenministerium Baden-Württemberg (8 July 1958), EL322 II, Bd.304, SL.

<sup>171</sup> Hans-Jürgen Z....., SS Hauptsturmbannführer to Herrn Generalstaatsanwaltschaft bei der Staatsanwaltschaft Ulm/D. (7 July 1958), EL322 II, Bd.61, SL.

By the end of July, the witness statements came to an end. After the testimony of German soldiers and Nazi officers, the few Lithuanian witnesses and Jewish survivors had testified. On July 18, the handful of expert witnesses began their testimony. These included experts on Lithuanian history, Lithuanian-Jewish relations, mechanisms of the Holocaust, and extant records of the Nazi regime. They were rabbis and doctors, archivists and professors.<sup>172</sup> Their testimonies buttressed the views already explored through the various witness statements and historical documents; their main objective was to further emphasize the framework in which the Tilsit mass murders were carried out. With their statements, the presentation of the case against the defendants was complete. All that remained were the statements of the lawyers and the defendants and the deliberation of the jury.

### **“In the Name of the People”**

The prosecution began its closing arguments at the start of August. Schüle stood before the court and recapitulated the previous three months of the trial. He reused photographs and images of the shooting sites, reminded the jury of the *Ereignismeldungen* revelations, and spoke on behalf of the victims. He then recommended that the court give “exemplary sentences” to the defendants to underscore the seriousness of the trial and the crimes. For four of the defendants – Fischer-Schweder, Böhme, Hersmann, and Lukys – Schüle recommended life imprisonment for murder. These men were the leadership and the “masters of life and death” for thousands in Lithuania.<sup>173</sup> The other six defendants were

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<sup>172</sup> “Litauen am schwersten betroffen,” *Schwäbische Donau-Zeitung*, 18 July 1958; “Quellenmaterial zur Geschichte des Dritten Reiches,” *Schwäbische Donau-Zeitung*, 19 July 1958; “Massenmord als ‘der Elite gemäße Bewährung...’” *Schwäbische Donau-Zeitung*, 19 July 1958; “Kein Zweifel an der Schuld Hitlers,” *Schwäbische Donau-Zeitung*, 21 July 1958.

<sup>173</sup> “Staatsanwälte fordern exemplarische Strafen,” *Schwäbische Donau-Zeitung*, 4 August 1958.

accused of being accessories to murder. The recommended sentence was fifteen years for Kreuzmann, ten years each for Harms and Behrendt, eight years for Carsten, seven years for Sakuth, and three years for Schmidt-Hammer.

Though the newspapers had already loudly reported that there was “no doubt” about the shooting of women and children in Lithuania, key questions did remain regarding the provenance of the orders for execution. The prosecutors had not been able to disprove the defendants’ claims that orders originated from a higher office. The *Ereignismeldungen* established that they carried out the murders, but not that they had initiated the orders. In turn, the defendants conveniently suggested that the directives came from either Stahlecker in the *Einsatzgruppe* or even above him, from Heydrich and Himmler in Berlin. None of these three survived the war or left behind available records to confirm or refute the defendants’ claims. This was why the defense had tried so hard, in vain, to locate the reports Tilsit sent to the *Einsatzgruppe A* office.

The legal defense for the accused capitalized on this. Across the board, they argued to differing extents the same version of the *Befehlnotstand*, or a defense of compulsion to follow orders. Hersmann’s attorney Rudolf Aschenauer made the first defense. Upon Hersmann’s arrest two years earlier, he had written to his “mother,” “brother,” and “sister” at the Nazi aid group *Stille Hilfe*, requesting Aschenauer’s defense.<sup>174</sup> Aschenauer was an established and notorious Nazi defense specialist, involved in the Nuremberg trials and later to edit the memoirs of Adolf Eichmann.<sup>175</sup> At one point during the proceedings, the other attorneys actually proposed putting Aschenauer on the stand as an expert witness on behalf of

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<sup>174</sup> Werner Hersmann to “Bruder” (11 November 1956), EL322 II, Bd.6, SL; Werner Hersmann to “Mutter” Prinzessin von Isenburg (16 November 1956), EL322 II, Bd.6, SL; Werner Hersmann to “Schwester” (16 November 1956), EL322 II, Bd.6, SL.

<sup>175</sup> Dr. Rudolf Aschenauer to Landgericht Ulm, Dr. Lörcher (27 February 1957), EL322 II, Bd.9, SL.

the defendants; the court rejected the idea.<sup>176</sup> By common agreement among the ten, Aschenauer was therefore selected to give the first of the final arguments, which framed those of the rest.

Aschenauer spent a “great part” of the defense discussing the larger question of the genocide and how it had been possible.<sup>177</sup> For him, the defendants were the lowest level implementers of a genocide organized and perpetrated by “hundreds and thousands of bureaucrats in all service levels,” and which had been authorized in full by Hitler. On the one hand, this meant that the men had been only following orders. “If an SS-man, especially in times of war, did not carry out a superior’s order [*Führerbefehl*],” Aschenauer went on, “he put his life in immediate danger.”<sup>178</sup> Since the prosecutors could find no hard evidence to contradict that the provenance of the orders came from above, Aschenauer felt on solid ground.

On the other hand, Aschenauer used this argument to attempt to undermine the legitimacy of the court. The premise challenged the idea that postwar law was being used retroactively to define crime under the Third Reich. The case as made by the prosecutors had itself demonstrated that these executions were state-sanctioned; as such they could not have been considered illegal at the time. One society’s good citizen was another’s murderer. How then, Aschenauer argued, could the court pass judgment via “dual systems of law” without taking account of a “dual standard of morality”? Since there was no possible way to

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<sup>176</sup> Beweis Antrag Schmid, et al (14 June 1958), EL322 II, Bd.17, SL.

<sup>177</sup> “Kein doppeltes Recht, keine doppelte Moral...” *Schwäbische Donau-Zeitung*, 12 August 1958.

<sup>178</sup> “Verteidiger beruft sich auf ‘Führerbefehl’,” *Frankfurter Rundschau*, 12 Aug. 1958.

“distinguish between active participation and knowing acquiescence” in the crimes, he argued for Hersmann and the others to be acquitted.<sup>179</sup>

Within this larger issue of applying postwar justice to wartime behavior and acting under compulsion to follow orders, each of the defense attorneys had to try to counteract the particular crimes attributed to the defendants – the accusations that purported to show a blood lust. For example, Hersmann had been accused of being a brutish and ideological Nazi and of shooting the Jewish doctor against the petitions of the *Wehrmacht* soldiers for whom the doctor was caring. Aschenauer argued first that Hersmann had not been a “staunch Nazi” but a “strict monarchist,” and second that there were no exemptions from shooting doctors, so Hersmann was only doing what he took to be his job.<sup>180</sup>

Fischer-Schweder’s defense attorney, Dr. Marcusen, who replaced his earlier defense team earlier in the year, tried to explain to the jury the mindset of Fischer-Schweder, confused and over his head in Memel at the outbreak of war. He reminded them that “to err is human, and such errors in war can have horrible consequences.”<sup>181</sup> His sanctioning of the murder of 711 civilians had been an unfortunate lapse in judgment. Fischer-Schweder moreover was “a child of his times” and his actions reflected more on these times than on the man himself.<sup>182</sup> As such, he should be acquitted. Schmidt-Hammer’s lawyer argued similarly that he had been in a difficult situation and did not realize the full implications of his actions. Since “in contrast to all the other defendants, Schmidt-Hammer never joined the

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<sup>179</sup> “Kein doppeltes Recht, keine doppelte Moral...” *Schwäbische Donau-Zeitung*, 12 August 1958.

<sup>180</sup> Plädoyer für Hersmann, Werner (11 August 1958), EL322 II, Bd.117, SL.

<sup>181</sup> “Freispruch für die Hauptangeklagten beantragt,” *Schwäbische Donau-Zeitung*, 13 August 1958.

<sup>182</sup> Plädoyer für Fischer-Schweder (12 August 1958), EL322 II, Bd.115, SL.

*Gestapo*, nor the SS, nor the SD, nor even the Nazi Party or other organizations,” his argument proved the most persuasive.<sup>183</sup>

After several days of the attorneys’ final arguments, the defendants themselves had the final words of the trial. They engaged in acts of limited contrition. All expressed regret at having taken part in the shootings, but remained insistent that they did not know the extent of their actions at the time, did not realize they were targeting civilians and not partisans, did not realize they were murdering Jewish civilians for being Jewish. As Fischer-Schweder stated, “Since 1945, I have spoken about my complicity in the appalling fate of our people and in the crimes of the former *Führer* because I have been a member of the Nazi movement since its beginning. I did not know about the *Vernichtungsbefehl* [a 1941 order authorizing mass murder], but nevertheless in my conscience I feel responsible because I was there.” Hersmann succinctly expressed the limited nature of their final statements: “Today I know that it was murder.”<sup>184</sup>

On August 29, 1958, the courtroom read the final verdict. After sixty days of trial, scores of witnesses, and hundreds of documents, the final judgment itself stretched on for almost three hundred pages and took the entire day to deliver. “In the name of the people,” the court sentenced each of the ten men to prison. All ten were convicted of accessory to murder. Böhme and Hersmann were sentenced to respective fifteen- and ten-year sentences as accessories to 3,907 murders; Fischer-Schweder to ten years as accessory in 526; Lukys to seven years as accessory in 315; Kreuzmann to five years as accessory in 415; Harms to three years as accessory in 526; Behrendt to five years as accessory in 1,126; Carsten to four years

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<sup>183</sup> Schlußvortrag des Rechtsanwalts Dr. Nissen, Ulm, als Pflichtverteidiger des Angeklagten Schmidt-Hammer (12-13 August 1958), H Nissen, SU.

<sup>184</sup> “Angeklagte bekennen einmütig ihre moralische Schuld,” *Schwäbische Donau-Zeitung*, 19 August 1958.

as accessory in 423; Sakuth to three years and six months as accessory in 526; and Schmidt-Hammer to three years as accessory in 526.<sup>185</sup>

The outcome was a mixed success for the prosecutors. To have tried ten men for mass murder and obtain convictions against all ten was unprecedented. In previous German trials for crimes of the Holocaust, acquittals had been the norm. In such trials with more than four defendants, acquittals had resulted for seventy-one out of seventy-eight defendants.<sup>186</sup> For example, a 1954 trial in Dortmund of twenty men accused of mass murder in the Warsaw Ghetto resulted in twenty acquittals. To this extent, the outcome of the Ulm trial must be considered a success. The convictions validated the new methods used in this case. In particular, orienting the proceedings around the crimes and placing these into a rich historical context removed significant burden from the prosecutors. A consistent marshalling of information, witnesses, and historical documents proved an effective means of counteracting even the best efforts of a Nazi defense specialist like Aschenauer. In the game of cat and mouse between prosecutors and defendants, these new techniques gave the prosecutors a powerful but short-lived advantage.

On the other hand, the sentences meted out were overall less than those recommended by the prosecutors. Four of the defendants – Böhme, Hersmann, Fischer-Schweder, and Lukys – had been accused of murder, but the court found them and the rest guilty of only accessory to murder. The court cited that “the originators of the...physical destruction of all Jews without regard to the old and the sick and of the communists in the East are, in the opinion of the court, Hitler, Himmler, Heydrich, and those close to them.”<sup>187</sup> This decision

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<sup>185</sup> *Justiz und NS-Verbrechen*, #465, 262-263.

<sup>186</sup> Figures and analysis here draw from the trial summaries in *Justiz und NS-Verbrechen*.

implied that only the Nazi elite could be convicted of murder on these charges. The argument put forth by Aschenauer and the others therefore was able to convince the court that the defendants were only the sharp end of the Nazi stick, implementers but not originators of the orders to commit mass murder. As a result, they could not be held fully responsible for their actions.

Subsequent decades of historical research have also nuanced the outcome of the Ulm trial. Though prosecutors tried in vain to locate the Tilsit reports, they were locked away in the Soviet sphere, only to come to light decades later.<sup>188</sup> Their contents provided the evidence of murder that the prosecutors had wanted. On June 24, 1941, the day of the Garsden shooting, Böhme and Hersmann noted that *Einsatzgruppe A* leader Stahlecker “gave his general approval to the cleansing operations in the area of the German border.” The report went on to note that three executions of “Jewish citizens” were subsequently carried out in Garsden, Krottingen, and Polangen. Later, Böhme and Hersmann encountered Himmler and Heydrich in the town of Augustowo. The Nazi elite “were informed of the actions initiated by *Stapo* Tilsit and endorsed them in full.”<sup>189</sup> This report suggested that the men had sought out Stahlecker’s approval for the executions – not that orders were given from him – and that the shootings were retroactively authorized by Himmler and Heydrich. Böhme and Hersmann had decided of their volition to murder Jewish civilians.

Without these reports, the men were found guilty of only accessory to murder and received substantially lower prison sentences. In the end, though, Fischer-Schweder did

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<sup>187</sup> *Justiz und NS-Verbrechen*, #465, 232.

<sup>188</sup> Jürgen Matthäus was the first to publish the findings of these reports in 1996; see, Matthäus, “Jenseits der Grenze.”

<sup>189</sup> Staatspolizeistelle Tilsit to Reichssicherheitsamt IV, et al (1 July 1941), RG11.001-M01, reel 10, USHMM.

receive a life sentence. After spending four years in prison since his arrest, Fischer-Schweder died of a heart attack alone in his cell in 1960 at the age of 56.<sup>190</sup>

### **Closing the Frontiers of the West**

In the midst of the Ulm trial, a letter came addressed to prosecutor Nellmann in Stuttgart. Its author was Gertrud Wechselmann, a Jewish woman from Lithuania, but then living in Freiburg. She had read about the trial in a local newspaper and wrote to Nellmann:

Did the members of *Einsatzgruppe* Tilsit [sic], who supposedly shot several thousands of Jews in the summer of 1941, also work in Libau, Latvia? I'm interested in having this question answered because my husband, the Jewish attorney and notary Dr. Ernst Wechselmann, was shot on the beach in Libau in the summer of 1941.<sup>191</sup>

For seventeen years after her husband's death, Wechselmann had absolutely no idea who was responsible for his murder. Her letter was one of many that came in from individuals with questions about the Nazi past. Like Wechselmann's, many of these inquiries were deeply personal. By bringing attention to *Einsatzkommando* Tilsit, the trial invited the question, if over three months and a border strip of twenty-five kilometers Tilsit had murdered five thousand, how many more crimes lay uncovered? How many criminals unpunished? For Wechselmann and others, the Ulm trial raised hope that these questions might finally be answered.

The trial had also raised the expectations of Schüle and Nellmann. There were many Tilsit members who were not included in the trial. Their investigations had brought to light other shootings and units unrelated to the defendants.<sup>192</sup> For these prosecutors and their

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<sup>190</sup> "In Memoriam: Bernhard Fischer-Schweder", *Der Spiegel*, 14 December 1960.

<sup>191</sup> Gertrud Wechselmann to Oberlandesgericht Stuttgart (6 June 1957 [date as written, but given details in the letter on Tilsit, most likely from 1958]), EL322 II, Bd.304, SL.

investigative staffs, bringing these criminals to justice could not be a process left to others; a central solution was needed. Nellmann and Schüle began to pressure the federal government to create an agency devoted exclusively to the investigation of Nazi criminals.<sup>193</sup>

Sympathetic journalists joined in, suggesting that the Ulm trial be a call for greater prosecutorial zeal.<sup>194</sup> The government agreed and created the *Zentrale Stelle der Landesjustizverwaltungen zur Aufklärung nationalsozialistischer Gewaltverbrechen* (Central Office of the State Justice Ministries for the Investigation of National Socialist Crimes of Violence) in December 1958.<sup>195</sup> Schüle was appointed its first president and the headquarters were based near his offices in Ludwigsburg. He brought along members of the Ulm investigative team to aid him. Their talents earned them the post, but Fischer-Schweder gave the opportunity to showcase them.

If the outcome of the Ulm trial showed the potential for such an agency, the wider legal context of the day gave the impetus for its creation. The current statute of limitations on all crimes committed under the Third Reich other than murder – in its strict “thirst for blood” legal definition – was set to expire in 1960.<sup>196</sup> Since the prosecutors had not even been able to convict any of the ten at Ulm of murder despite the plethora of evidence aligned against them, such an expiration would have placed thousands beyond the reach of West German justice. The government eventually extended the statute of limitations and modified

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<sup>192</sup> Nellmann to Justizministerium Baden-Württemberg (3 September 1958), EL322 II, Bd.304, SL.

<sup>193</sup> Marc von Miquel describes the efforts of both Schüle and Nellmann in advocating publicly for a central body; see, Marc von Miquel, “Explanation, Dissociation, Apologia: The Debate over the Prosecution of Nazi Crimes in the 1960s,” trans. by Andrew Oppenheimer, in *Coping with the Nazi Past: West German Debates on Nazism and Generational Conflict, 1955-75*, ed. by Philipp Gassert and Alan E. Steinweis (New York: Berghahn Books, 2006), 52-53; Ruckerl, 48.

<sup>194</sup> See, for example, the editorialist Ernst Müller-Meiningen, Jr.; *Süddeutsche Zeitung*, 30 August 1958.

<sup>195</sup> Ruckerl, 47-49.

<sup>196</sup> Von Miquel, “Explanation,” 56-60.

this definition of murder, but prosecutors in 1958 could not have known this. They operated under the assumption that if Nazi criminals were to come to justice, there remained only a short window of time for these investigations and trials to commence. The foundation of the *Zentrale Stelle* within a matter of months highlights this sense of concern on the part of the government.

Though a positive step for the prosecution of war criminals, the *Zentrale Stelle* did have severe limitations placed on it. First, the agency was authorized to launch investigations, but had to hand over the cases to the relevant states for prosecution. Second, the *Zentrale Stelle* could only investigate criminal actions that took place outside of the Federal Republic. Third, crimes involving members of the *Wehrmacht* were explicitly outside of the organization's purview. Taken together, these limitations meant that the crimes investigated primarily involved the murder of Jews outside of Germany by Nazi officials.<sup>197</sup> As a result, the *Zentrale Stelle* offered a forum for investigations, but confined this discussion to a traditional framework for interpreting crimes of the Holocaust: they were the actions of hardened Nazis, not ordinary Germans, that occurred outside the borders of Western Germany and therefore largely without the knowledge or approval of the average German citizen.

Despite such limitations, the *Zentrale Stelle*, with an initial staff of only eleven lawyers, made an immediate impact. Schüle used all records available to him. He visited the vast volumes of captured Nazi documents held in Alexandria, Virginia. He and his staff spent several weeks going through these, amassing a list of thousands of individuals to

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<sup>197</sup> Ibid., 52.

investigate.<sup>198</sup> Since a prosecutor needed only to begin an investigation in order to avoid the expiring statute of limitations, these early months of the *Zentrale Stelle* led to a massive increase in active investigations. In the ensuing decades, the agency brought thousands of Nazis to justice.

The creation of the agency acted as a bellwether of wider changes. Already seen in this paper has been the growing number of organizations and archives interested in the Nazi past and finding those who had escaped justice. With the Ulm trial and a series of other smaller but high profile cases, the antennae of the public became more sensitively attuned to the crises of failed reintegration.<sup>199</sup> Increasingly, these changes to the cultural, organizational, professional, and legal spheres cleaned up the image of West Germany. The Cold War was in full swing and Germany increasingly a battle ground of propaganda. Many records remained locked away in East Germany and other Soviet-controlled countries, only to see light when politically expedient—for example, to reveal a prominent West German as a former Nazi member. Schüle himself fell victim to such a Soviet attack, when it was made public that he had concealed aspects of his own Nazi past.<sup>200</sup> Though cleared of any wrong-

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<sup>198</sup> “War Crimes Unforgotten,” *Time*, 9 November 1962, <<http://www.time.com/time/magazine/article/0,9171,829321,00.html?promoid=googlep>>.

<sup>199</sup> During the summer of 1958, two other incidents captivated the public and the attention of the presses. The first was the trial of an SS prison guard, Martin Sommer, known to the newspapers “the slayer” and “the hangman” of Buchenwald; see, *Justiz und NS-Verbrechen*, #464. The other case was against a former SS doctor, Hans Eisele, who fled his offices in Munich for Egypt when he learned of his impending arrest. See von Miquel, “Expectations,” 51-53.

<sup>200</sup> In 1965, a report from Moscow claimed that Schüle had taken part in a massacre of Jewish civilians in the Russian town of Chudovo. In “The Case of Erwin Schüle” (“*Die Sache von Erwin Schüle*”), the Soviets aimed to bring down one of Western Germany’s most open advocates of an active engagement with the past by revealing him to have been a Nazi criminal. Though Schüle defended himself and the accusations about the massacre proved false, he did admit to having been a Nazi party member. Ultimately, it was not so much his party membership but the fact that he had kept this a secret that led to his resignation in 1965. See, “Die Ermittlung,” *Der Spiegel*, 18 April 1966; and “Der zweite Fall Schüle,” *Die Zeit*, 16/1966, <<http://www.zeit.de/1966/16/Der-zweite-Fall-Sdiue>>.

doing, the issue forced his resignation and brought an embarrassing end to the first presidential tenure of the *Zentrale Stelle*.

What all of these changes meant, moreover, was that the Fischer-Schweder story became increasingly bound to its time and place. By the 1960s, it would have been far more difficult for Fischer-Schweder to be active in the service of the state, especially in such a public post. Schmidt-Hammer, Hersmann, Böhme, Kreuzmann, Carsten, Behrendt, Sakuth, Harms, and Lukys at some point would have been subject to questions about the past, a past about which the public and the government were increasingly well informed. The cataclysm of World War II had thrown the entire country into disarray in the decade after, but slowly it all began to resettle. Order returned to the chaos and the former Nazis who thrived off the latter found it harder to hide in the former. The frontiers that defined the postwar period of West Germany, in which no questions were asked and anyone was who they claimed to be, were coming to an end.

Justice at Ulm may have been slow in coming and insufficient in its sentences, but the creation of knowledge and the judicial attempt to work through Nazi crimes were part of a necessary process for West Germany in order to find its own way forward. In 1971, thirteen years after Gertrud Wechselmann's letter to Nellmann and thirty years after her husband's murder, she finally got her answer, and men responsible for the mass shootings in Libau, Latvia – members of *Einsatzkommando 2b* and local police units – were sentenced to prison thanks to an investigation undertaken by the *Zentrale Stelle*.<sup>201</sup>

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<sup>201</sup> *Justiz und NS-Verbrechen*, #760.

## Appendix: Historiography

This paper has worked within and attempted to intervene in several historiographical trends. First is the narrow body of work done on the Ulm trial itself. To date, no full history of the trial has been published. A recent museum exhibit in Ulm in 2008 for the fiftieth anniversary of the trial was accompanied by a series of public lectures and a well-crafted pamphlet history on the trial.<sup>202</sup> The pamphlet and exhibit did an admirable job portraying the development of the trial, but its emphasis, as with the lectures, tended to lean on the legacy of the Ulm trial. This trend has dominated the scholarship of the trial as well. Marc von Miquel has perhaps written on the trial in the most depth, and though he briefly engages with Fischer-Schweder's postwar life, his main aim is to use the Ulm trial instrumentally in showing the growing seriousness with which West Germany faced its Nazi past.<sup>203</sup> The Ulm trial, moreover, is subsumed in his larger project of showing ongoing German attempts to define the place and role of former Nazis in the West German successor state.

Historians have tended to follow this example. They generally agree on the significance of the Ulm trial as a necessary step in coming to terms with the past. In particular, the emphasis is on the cultural legacy of the trial and the intensive media coverage surrounding it. Jeffrey Herf provides a useful example of this conventional historical narrative in his 1996 work, *Divided Memory*:

In 1958 in a trial of an *Einsatzgruppe* in Ulm, the West German public first faced the cost of the integration and amnesty policies of the early 1950s. A former police director...was convicted and sentenced to a long prison term. Journalists, liberal politicians, lawyers, and intellectuals now called for a systematic examination and

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<sup>202</sup> The Ulm city museum featured an exhibit during the first half of 1958 on the Ulm trial. For the pamphlet, see: "Die Mörder sind unter uns. Der Ulmer Einsatzgruppenprozess 1958" (Stuttgart: Haus der Geschichte Baden-Württemberg, 2008).

<sup>203</sup> Marc von Miquel, *Ahnden oder Amnestieren? Westdeutsche Justiz und Vergangenheitspolitik in der sechziger Jahren* (Göttingen: Wallstein, 2004).

judicial prosecution of Nazi war crimes and crimes against humanity. The era of democratization based on silence and integration was coming to an end, and a more intensified period of West German judicial confrontation with Nazi crimes was beginning.<sup>204</sup>

Herf's portrayal of the Ulm trial comprises only a paragraph in his path-breaking book on German memory after the war, yet the narrative carried a substantial historical weight. Similar sentiments are expressed in numerous other postwar histories of West Germany.<sup>205</sup>

The result is twofold. First, the Ulm trial is typically treated as a cause of later changes and has not been given sufficient attention in itself a result of shifting social variables. This essay has therefore sought to reorient the focus on the Ulm trial. By examining its origin and evolution, the chain of events leading to the *Zentrale Stelle* and postwar resurgent interest in crimes of the Nazi past themselves come to be seen as more contingent than generally assumed. Second, the outcome of the trial has been discussed in cultural terms. This essay has intentionally avoided extensive discussion of the cultural or media response to the trial in order to emphasize the underappreciated legal legacy of the trial. Certainly there was a cultural impetus behind the creation of the *Zentrale Stelle*, but without the developments, skills, and networking that went into the Ulm trial, this agency would have been unimaginable.

The second relevant historiography concerns postwar trials. Here the scholarship has tended to leapfrog the 1950s, focusing on the Allied trials of Nazi elite in Nuremberg in the

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<sup>204</sup> Jeffrey Herf, *Divided Memory: The Nazi Past in the Two Germanys* (Cambridge, Mass.: Harvard University Press, 1997), 296.

<sup>205</sup> See, for example: Adalbert Rückerl, *The Investigation of Nazi Crimes*, trans. by Derek Rutter (Hamden, Conn.: Archon Books, 1980), 48-49; Peter Steinbach, *Nationalsozialistische Gewaltverbrechen* (Berlin: Colloquium Verlag, 1981), 46-49; Jörg Friedrich, *Die Kalte Amnestie: NS-Täter in der Bundesrepublik* (Frankfurt am Main: Fischer Taschenbuch Verlag, 1984), 324-330; Rebecca Wittmann, 30; Devin Pendas, 19-21; von Miquel, "Explanation, Dissociation, Apologia: The Debate over the Prosecution of Nazi Crimes in the 1960s," trans. by Andrew Oppenheimer, in *Coping with the Nazi Past: West German Debates on Nazism and Generational Conflict, 1955-75*, ed. by Philipp Gassert and Alan E. Steinweis (New York: Berghahn Books, 2006), 51-53.

late 1940s, on one hand, and on the spurt of prominent trials that began in the 1960s, on the other. As mentioned, the Ulm trial fit into this narrative as a kind of shorthand for bridging the gap between the perceived period of prosecutorial dormancy in the 1950s to the resurgence in the 1960s. Two recent works by Devin Pendas and Rebecca Wittmann on the Frankfurt Auschwitz trials from 1963-1965 typify this instrumentalizing of the Ulm trial.<sup>206</sup> This paper has attempted to explain the steps by which this trial came about; but more than that, it is hoped that by conducting a full history of the trial, this fallow period of prosecutorial indifference to crimes of the Third Reich is foreshortened. The processes that led to the 1958 trial were underway as early as 1954, and so the notion of a dormant 1950s needs to be reexamined.

On this point, as well, the paper engages a third historiography, and this broadly considers West German *Vergangenheitsbewältigung*, or attempts to come to terms with the past. This umbrella category includes the historiographies already discussed – those of the Ulm trial and other postwar trials – but includes the wider social, cultural, and political efforts to reconcile the present to the Nazi past. Jeffrey Herf's *Divided Memory* was one of the major works to consider how both Germanys sought to reshape and legitimize the present state through constructions of the past. In the West, these efforts in the initial postwar period tended to sidestep the Nazi period, creating “multiple restorations” of the pre-Nazi German governments. In this situation, the Adenauer government faced a choice of “either memory and justice or democracy but not both.”<sup>207</sup> In order to move forward, Herf argued, West Germany was forced to delay justice. A second major work, Norbert Frei's

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<sup>206</sup> Rebecca Wittmann, *Beyond Justice: The Auschwitz Trial*, (Cambridge, Mass.: Harvard University Press, 2005); Devin Pendas, *The Frankfurt Auschwitz Trial, 1963-1965: Genocide, History, and the Limits of Law*, (New York: Cambridge University Press, 2006).

<sup>207</sup> Herf, 7.

*Vergangenheitspolitik* (translated into English as *Adenauer's Germany*) sought to describe the governmental debates over how to socially integrate members of the Nazi regime.<sup>208</sup> As with Herf's account, Frei emphasizes that postwar Germany was a forward-looking state, too pressed with the needs of the present to engage in concerns over the past.

Herf and Frei have inspired a wide literature, most of which has confirmed their interpretation of the postwar period as dominated with concerns for the future and beliefs of victimization in the past.<sup>209</sup> This narrative concludes with a cultural reawakening in the 1960s that caused Germany to seriously consider for the first time how the Nazi period and the Holocaust in particular were possible. The work in this paper has in this regard acted as a case study of these changes taking place in 1950s West Germany, suggesting that these developments may have been more contingent than initially thought. The story of Bernhard Fischer-Schweder conforms to many aspects of Frei's *Vergangenheitspolitik*, which demonstrates a German society initially unable and even unwilling to confront the Nazi era.

His downfall, however, demonstrates that these wider processes of social change occurred to large extent via connections made through various pockets of progress. Organizations, prosecutors, media, and members of the public contributed to the trial's origins, development, and outcome. The 1950s was not a decade of German obsession with the Nazi past, but nor was it, as this essay has shown, a moment of total amnesia. Aspects of society were beginning to come around to a more historically self-aware understanding of the

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<sup>208</sup> Norbert Frei, *Adenauer's Germany: The Politics of Amnesty and Integration*, trans. by Joel Golb (New York: Columbia University Press, 2002).

<sup>209</sup> See, for example: Dick de Mildt, *In the Name of the People: Perpetrators of Genocide in the Reflection of their Post-War Prosecution in West Germany* (The Hague: Martinus Nijhoff Publishers, 1996); Edgar Wolfrum, *Geschichtspolitik in Der Bundesrepublik Deutschland: Der Weg Zur Bundesrepublikanischen Erinnerung 1948-1990* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1999); Robert G. Moeller, *War Stories: The Search for a Usable Past in the Federal Republic of Germany* (London: University of California Press, 2003); von Miquel, *Ahnden*; Wulf Kansteiner, *In Pursuit of German Memory: History, Television, and Politics after Auschwitz* (Athens, Ohio: Ohio University Press, 2006); and Jarausch, *After Hitler*.

German past. In this way, a nuanced and – above all – decentralized view of how West Germany came to confront the Nazi past emerges.

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