

AFFIDAVIT OF GERALD GUNTHER

I, GERALD GUNTHER, say and declare:

1. I am a professor at the Stanford Law School. I have been a professor of law at Stanford since 1962. I am a member of the Faculty Consultative Group which advises the University President on campus disruptions. I have been a member of that group since 1968.

2. During the course of the sit-in demonstration at the Applied Electronics Laboratory building at Stanford University that began on April 9, I became aware of the existence of an informal, loosely knit, ad hoc volunteer group of law students concerned with the sit-in demonstration. My dealings with law students who were associated with that group were infrequent and irregular and took place mainly on April 11 and 12.

3. I first learned of the existence of the informal law students group, and of its purpose, on the evening of Friday, April 11. Near the main entrance of the Applied Electronics Laboratory on that evening, I encountered a law student. He told me that he had spoken earlier in the evening with President

Pitzer, to persuade the President to give law students associated with the Movement two hours advance notice in the event of a police action. He reported that the President had been reluctant to make such an agreement, and we discussed some of the practical problems of any such prior notice for a while.

4. Later that evening I encountered a second law student. He also asked about the possibility of a prior notice of a police raid. I told him of my conversation with the first law student. The second student insisted that the first one had taken too much upon himself in speaking to the President, and indicated that he felt himself a more appropriate spokesman not because of any formal status of himself or the group but because of his greater ideological commitment to the Movement.

5. There were further conversations with the second law student about the advance warning arrangements. I suggested the talks would be more useful if we got several students together, and we met at my home on Saturday afternoon, April 12. That group included three law students: Stephen Heiser as well as the two I had spoken with earlier. Heiser reported that he had called President Pitzer to press the advance warning request, and that he had not gotten a receptive reaction. My aim in the ensuing discussion was to suggest to the law students

that there were indeed practical problems to any such warning arrangement and that the President's response might indicate a lack of adequate effort by the students to work out their proposals with adequate care. I received a telephone number from the students at which the law students could be reached, in case there were an opportunity for advance warning of any police action. I said I was prepared to discuss the matter further if they could come up with a plausible plan free of the objections we had discussed. I did not hear from any of the students again about that proposal. The only other request I learned of from the law students was to have a telephone installed for emergency use to summon help in case of a police action. An emergency telephone was subsequently installed at the Applied Electronics Laboratory.

6. During all of these dealings, I received a clear impression that the sole purpose of this informal group of law students was to be available for protection and advice in case of any police action to end the sit-in. The purpose of the group, I was repeatedly told, was to provide observers as a restraint on any police brutality and any student violence in case of a "bust," and to supply general advice regarding demonstrators' rights in case of arrest should a police action take

place. All of the requests to me were by law students concerned with the sit-in and related to the working out of arrangements to give the law students advance notice in the event the University decided to call in the police. The purpose of that advance notice was to permit the law students to gather to act as observers and advisors in case of a police action.

7. My impressions of the informal and non-representative nature of the law student volunteer group, and of its narrow purpose, were reaffirmed by the events of the following days at the Applied Electronics Laboratory sit-in. During the period between April 13 and 16, the University made intense but unsuccessful efforts to enforce its internal disciplinary procedures in accordance with the detailed steps outlined in the University Policy on Campus Disruptions. Those steps included visits by members of the faculty and staff to the Applied Electronics Laboratory building to request students to leave and to identify themselves if they failed to leave. As a member of the faculty and of the Faculty Consultative Group on Campus Disruptions, I spoke with a number of students to persuade them to cooperate with the prescribed internal judicial processes. I especially appealed to several law


students, on the ground that these were the policies and procedures that had been adopted by the entire University community and that willingness to identify oneself was the appropriate course for anyone taking the stance of civil disobedience. I urged that, as law students, they had a special reason to be concerned with the operation of the University disciplinary processes and to help persuade others in the Movement. Though some individuals seemed sympathetic to my appeal, I was repeatedly advised by members of the informal law student group that they could not take any responsibility for guiding or advising or representing the Movement in this respect. They indicated to me that their sole purpose was to help in the event of a police action, that they were already under suspicion by some members of the Movement because their arrest procedure advice tended to brand them as excessively legalistic and not sufficiently political, and that they certainly could not step beyond their limited "bust"-related role.

8. At no time was I given any indication that the informal law students group considered itself, or was authorized to act as, the formal legal representative of the April 3rd Movement, or that the group was concerned with any sit-in related matter

other than possible police action. Nor was I advised that there were lawyers in the group, or that the student group was to represent the Movement for general law-related purposes.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Stanford, California, on May 8, 1969.


GERALD GUNTHER