

SERIOUS JUVENILE CRIME IN NAZI GERMANY

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With the outbreak of World War II in 1939, German law enforcement professionals grew increasingly concerned that the patterns of World War I and some prewar trends in juvenile delinquency would intensify and that they might witness an overall rise in all types of crime, from minor property offenses to serious and violent crime. Indeed, after the outbreak of the war, police and court officials from a number of communities observed significant jumps in the incidence of crime.¹ Political leaders shared these concerns, and as early as 1 February 1940, Hermann Göring called a meeting to discuss the challenges facing German youth during the war.² The relationship between war and the mounting seriousness of teenage crime continued to be a topic of discussion over the next several years as the data compiled by the Reich Statistical Agency revealed a steady increase.

Police, court officials, and some political leaders were not the only observers to notice a disturbing trend in crime among juveniles. In 1941, Edith Roper, a young reporter who had covered the criminal courts in Berlin, published a book on her experiences, devoting a chapter to “young murderers.” Written in American exile, Roper’s exposé shed considerable light on the operation of the Nazi justice system and the impact of Nazism on German society and particularly its youth. Roper stated that “since 1937 the number of youthful murderers has risen steadily and rapidly,” and she held the violence that permeated Nazi Germany responsible.³

When Nazi officials took notice of and focused on the issue of serious teenage crime, their response was swift and severe. On 4 October 1939, the *Ministerrat für die Reichsverteidigung* (Ministerial Council for the Defense of the Reich), chaired by Hermann Göring, issued the Decree for the Protection against Juvenile Serious Offenders, which took effect immediately.⁴ While the Nazi regime

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had long taken pride in the effectiveness of its response to crime, this decree was an admission that the policies for dealing with serious teenage offenders had not worked. Under the decree, youngsters over sixteen years of age and identified by the courts as sufficiently mature to be prosecuted as an adult were subject to adult punishments, including lengthy prison terms and even the death penalty.⁵ The decree embodied a number of contemporary legal tendencies, some long established in German criminology, others fundamental to Nazi jurisprudence. Under its provisions, most of the responsibility in deciding whether to prosecute a teen under the terms of the decree was left to the district attorney and the court, thus giving prosecutors and judges greater flexibility and discretion in determining the fate of an accused youngster. Thus the trend toward eliminating “community aliens,” “asocials,” and others who did not fit neatly into Nazi society, as well as draconian sentencing practices, were now extended to juveniles.⁶

In practice, the number of prosecutions under the terms of the decree remained low during the first two years of the war.⁷ The rise in the incidence of violent crime among juveniles was not halted, however, and its persistence caused grave concern within the Ministry of Justice. The problem became so acute that Martin Bormann, head of the Nazi Party Office (Chef der Parteikanzlei) and Hitler’s closest confidant, contacted the Minister of Justice, demanding new and more drastic actions. In spite of the severity of the problem and the sensitivity toward it among the political leaders, change came only in November 1943, when, as part of a revision of the criminal code, the age of legal responsibility was lowered to fourteen. Draconian sentences—and even capital punishment—could now be imposed on these youngsters.⁸ This too proved ineffective.

Clearly, both law enforcement professionals and political leaders were concerned about the problem of serious and violent crime among teenagers. How extensive was it? Do the statistical data and reports collected throughout the Reich indicate a rising incidence of such offenses among youth? What measures were taken by the regime? How effective were they?

The Problem: Serious Teenage Crime

“The participation of juveniles in severe and brutal offenses began rising long before the war,” wrote a Hitler Youth official in his 1940 report on juvenile delinquency. Although the overall trend for the 1930s had been a drop in the incidence of violent offenses, caused in part by the easing of political tensions and the stabilization of the economy, convictions began to rise in the middle of the decade. It took several years, however, for this trend to show up in the official statistics.⁹

Serious and violent crimes committed by teenagers remained a problem throughout the decade. Although in fact quite rare, such crimes attracted public

attention and, consequently, the concern of political leaders largely because of their seemingly inexplicable nature. The brutal murder of a restaurant owner in a Bavarian village in July 1933, for example, carried out by three adolescents, generated considerable local interest. A year later, a thirteen-year-old boy murdered a classmate. After his arrest, he described his crime to the police and told them that he had coveted the victim's Hitler Youth uniform. The only way he thought he could have it was by murdering the boy, and after several days of planning, he carried out the crime. Police arrested him the next day as he walked through the village wearing his victim's uniform.¹⁰

A contemporary analysis of the increase in serious juvenile crime came from former Berlin court reporter Edith Roper who attributed it to the "general contempt for human life" that pervaded the Third Reich.¹¹ In most of the cases that Roper observed in the juvenile courts of Berlin, the circumstances were remarkably similar: the young defendant, brought before a judge, was unable to explain or justify the violent act he had carefully planned and carried out. These youngsters, she wrote, neither demonstrated nor felt any remorse for their crimes. Characteristically, they had not even tried to evade the police. Most sat through the court hearings showing no emotion, no concern for themselves or their victim, and made no effort to defend themselves. For Roper, who had fled Nazi Germany, this behavior confirmed the moral bankruptcy of Nazi Germany and its pernicious influence on youth.¹²

Roper's observation of an increase in serious juvenile crime was supported by official data. Material collected and statistics compiled by the Reich Criminal Police for the years 1936–1939 confirm that violent and serious teenage crime was on the rise, and its surge in the latter part of the decade began to attract considerable attention. Reports of alarming crimes came from all parts of the Reich. In Chemnitz, for example, a sixteen-year-old girl killed her newborn child, and an eighteen-year-old boy severely injured two girls during a break-in.¹³ The arrest of a sixteen-year-old boy in Offenbach in 1939 halted a wave of break-ins and robberies that he had carried out with some friends, two of whom were under the age of fourteen.¹⁴ In Bockheim, two teenagers were arrested for assaulting a worker and stealing his money. In Hamburg, police arrested a seventeen-year-old and his companion on charges of car theft, thus stopping a crime wave that had already resulted in the theft of more than a dozen vehicles. The teens had used the stolen vehicles to commit other offenses, such as break-ins and robberies, crimes that were sufficient to have them identified as serious offenders. A local police officer commented that these crimes were not unusual, and "every other week during 1939 shows a similar picture." In fact, robberies involving use of a stolen car rose sharply as teens mimicked the criminal exploits of the Brothers Sass, who terrorized sections of Berlin with their brazen thefts.¹⁵ In Hamburg, a fourteen-year-old boy stabbed his father to death in early July 1939. The indictment noted that "the relationship between the accused and his father was nothing special."

When his father returned home drunk and started an argument, the teen got his knife and stabbed him. The father died of wounds to the neck. The boy was prosecuted, convicted of manslaughter, and sentenced to eight years in prison.¹⁶

The incidence of serious teen crime jumped during the first quarter of 1939. Compared with the previous three months, based on incomplete data from the Reich Criminal Police Agency, the number of murders or attempted murders by teenagers rose by 45 percent. Robberies shot up by 59 percent. Serious moral offenses increased by 26 percent.¹⁷ Anecdotal reports and the number of arrests and prosecutions corroborated the official data. With most officials expecting an initial drop in the crime rate with the outbreak of war, the continuing increase in serious crime among teens caused a great deal of concern.¹⁸

The Nazi regime had long believed that its efforts to stabilize political life, stimulate economic recovery, and organize the youth would have a positive effect, particularly on teenagers. By the end of the decade, however, it became apparent that the problem of teenage crime was grave.¹⁹ There was widespread agreement that the Nazi regime had to take whatever steps necessary to curb adolescent crime, especially serious and violent offenses. Although Germany's Juvenile Justice Act (*Jugendgerichtsgesetz*), originally passed in 1923, stipulated that everyone under the age of eighteen be prosecuted as a minor, after the Nazi seizure of power jurists began to discuss new measures for dealing with hardened juvenile criminals. Thus the Academy for German Law, a Nazi-sponsored organization that worked on revising the German criminal code, strongly recommended that several measures used to combat serious adult offenders, including the 1933 Law against Dangerous Habitual Criminals, which authorized preventive detention (*Sicherungsverwahrung*), be extended to minors. These new measures, it was believed, would weed out serious and violent teenage offenders and thereby protect society.²⁰ These discussions also renewed interest in teenage offenders among German criminologists, who had long maintained that the crimes of those aged sixteen to eighteen typically resulted from the young offender's immaturity and insecurity. Adolescence, they argued, was a time of probing, testing, and experimenting: years when the desire for stimulus and excitement could easily overwhelm a youngster's sense of judgment and responsibility. These factors, however, did little to explain the *rise* in serious teenage crime. Other explanations, such as the demographic increase in the number of youths reaching the age of sixteen, the intensified investigation and prosecution of offenders regardless of age, or the enactment of new laws, also failed to offer a plausible answer.²¹

There were increasing calls for more stringent punishment of juveniles convicted of violent or serious offenses, and criminologists and jurists concluded that new preventive measures were necessary. In November 1938, for example, a Berlin judge suggested that the age of legal responsibility, a criterion for determining competency to stand trial, be lowered so that more youngsters would face adult punishments for their offenses. A case tried in his Berlin courtroom

involved a teenager charged with the assault of twenty-two women, one of whom he had allegedly raped and killed. After convicting the boy the judge wrote that “the defendant deserved the death penalty and would have been sentenced to death if the law had permitted it.” Another case from the same court involved a seventeen-year-old boy convicted of robbery and murder. The judge complained that the ten-year sentence, the maximum allowed under the Juvenile Justice Act, did not fit the crime and commented, “The case invites the question: Do the penalties of the juvenile court, created under the influence of liberal legal structure, require a change?”²²

Similar complaints came from other members of the judiciary, who strongly advocated a wider range of sentencing options to be imposed on teenagers convicted of serious offenses.²³ Once war broke out in September 1939, confronting this issue could no longer be postponed; the war also served as a catalyst for the implementation of long-discussed changes. An increase in teenage violent crime had already been detected in the figures compiled by the Reich Statistical Agency and in reports from local officials.²⁴ It was believed that only prompt, decisive action could prevent a recurrence of the problems experienced during World War I. Efforts to explain the latest crime wave were largely based on the experiences of the previous war, and most criminologists and Nazi officials still relied on the standard explanations: fathers were now serving in the military or working longer hours in war-related industries, supervision at home was lax because the mothers were now working, time spent at school was reduced as some teachers were drafted into the armed forces, many youngsters worked night shifts, large numbers of soldiers were quartered nearby, increased blackouts; all of these factors, it was argued, contributed to increasing juvenile delinquency.²⁵

Some criminologists offered more sophisticated interpretations of serious juvenile crime that included a variety of other factors, such as some teenagers' desire to get the money needed to live a more independent lifestyle or to impress friends, which might prompt them to commit robberies or break-ins. Other explanations focused on the teen offender's personality and home environment. A criminologist who studied the problem for the Hitler Youth organization, for example, suggested that closer cooperation between the Hitler Youth and parents was imperative and would yield favorable results in combating juvenile delinquency.²⁶ Still other theories of teenage crime stressed the young offender's biological development, and several criminologists emphasized the need to examine these factors to evaluate juvenile offenders properly. A number of Nazi jurists and criminologists argued that some teenager offenders' crimes expressed an inability to function as a normal citizen in Nazi society and concluded that, due to inherited traits that destined them to lead lives of crime, such youths would never be worthy members of the *Volksgemeinschaft*. A few criminologists suggested that such biologically abnormal youths, essentially born criminals, be sterilized and/or incarcerated to protect society.²⁷

What appeared to be a rise in serious teenage crime, coupled with the expectation that the problem would only worsen, precipitated the swift enactment of the Decree for the Protection against Juvenile Serious Offenders (*Verordnung zum Schutz gegen jugendliche Schwerverbrecher*) of October 1939. The decree reflected the demand for tougher measures, which was justified with the argument that not all juvenile offenders could be reintegrated into society. Some, it was argued, were already beyond rehabilitation, destined to a life of serious crime and, in fact, “racially defective.” Hence, it was best to remove them from society as soon as possible.²⁸ The decree addressed these concerns directly. Previously, the legal treatment of teenage offenders had been governed by the Juvenile Justice Act of 1923, which stipulated that all offenders between the ages of fourteen and eighteen must be treated differently from adults even if they were arraigned on the same charges.²⁹ While the act was still regarded as adequate for dealing with the typical juvenile offender, the crimes of some teenagers were now viewed as so serious that their perpetrators should no longer be exempted from adult punishments. Criminologists saw this as one of the “most difficult and urgent criminal/political issues of the day.”³⁰

The Response: The Decree for the Protection Against Juvenile Serious Offenders

The Decree for the Protection against Serious Juvenile Offenders was issued by the Ministerial Council for the Defense of the Reich on 4 October 1939 and took effect with its publication in the *Reichsgesetzblatt* on 9 October (Nr. 199, 2000). The reaction of judges and criminologists to the new law was immediately favorable, tempered only by surprise at the speed with which “one of the most significant criminological problems of the day” had been tackled. Only five weeks after the outbreak of war, a major new law, and a key element of legal reform, was enacted. Many judges welcomed the opportunity to impose more severe sentences on serious teen offenders.³¹ The 1939 decree targeted juvenile offenders who had committed a serious crime and were between sixteen and eighteen years of age at the time of their offense. In general, the prosecution of juvenile offenders who fell under the decree took place in an adult court and in accordance with the rules of that court. However, if the district attorney initiated the prosecution of a minor in a juvenile court and the defendant was later characterized as a serious criminal, the trial had to continue in the juvenile court.³² Moreover, in some jurisdictions, cases of extreme violence were not handled under this law.³³

The first two paragraphs of Article I of the decree read: “The district attorney can issue an indictment against a juvenile who at the time of the criminal act was over 16 years of age before a court that is also responsible for adult trials and decisions. In these cases the thus delegated court imposes those punishments and

precautionary measures that are used against adults if the [juvenile's] mental and moral development is on the level of a person over 18 years of age, and if, in light of the criminal act or an especially reprehensible criminal character, the protection of the *Volk* demands such penalties."³⁴ This provision established the criteria that had to be met before a teenager could be prosecuted as an adult. First, the youngster had to be older than sixteen years of age at the time of the crime. This also applied to an offender who committed a series of crimes even though the offender might not have been sixteen when the string of crimes began.³⁵ Second, the juvenile had to be criminally responsible in accordance with Article III of the 1923 Juvenile Justice Act, which stated that a juvenile could be prosecuted only if he or she was sufficiently mature to recognize the illegality of his or her act at the time it was committed.³⁶ Third, the maturity of the juvenile offender at the time of the offense had to, in fact, exceed the minimum stipulated by the Juvenile Justice Act: to be prosecuted in an adult court, the juvenile must have reached a level of maturity equivalent to that of an eighteen-year-old.

Whether a teenager had the necessary experiences in life, the understanding, and the moral values of an average eighteen-year-old was difficult to determine. Criminologists and psychologists pointed out that there was no readily identifiable boundary in a youngster's development at the eighteenth birthday, that early maturity among teens was the exception, and that the process of maturation was generally completed only at about twenty to twenty-two years of age.³⁷ To be prosecuted as an adult, the development of a juvenile's intelligence, sensitivity, character, and physical growth had to demonstrate adulthood, no longer exhibiting the characteristic naïveté of childhood.³⁸ A careful examination of the individual was necessary to establish the youngster's maturity at the time of the offense. Simply proving the offender's maturity at the time of the trial was not sufficient; the court had to be convinced that this level of maturity had been achieved before the offense was committed. The proof of this development, criminologists argued, could be found in the circumstances of the criminal act.³⁹

Even if a youth had reached maturity before the age of eighteen, this did not mean that he could be prosecuted under the new decree; in addition, he also had to be a serious offender (*Schwerverbrecher*).⁴⁰ The decree targeted teenagers who were seen as having embarked on the path to a lifetime of crime and were therefore viewed as posing the greatest threat to society. The courts, however, faced a major problem in determining which youngsters were, as one criminologist wrote, "the future serious criminal[s]." In general, youngsters with long criminal records and years spent in remand homes and who showed "an unfavorable prognosis" despite numerous attempts at rehabilitation were most likely to be considered targets of the new decree. Legal and criminological commentators interpreted the decree to be concerned with removing "developing habitual criminals" from German society while they were still minors. As criminologist Sigmund Silbereisen wrote: "Now that the ranks of the old habitual criminals

had been thinned out, it was necessary to prevent new ones from replacing them. This, in turn, would eventually lead to success in battling serious criminality.”⁴¹ The focus became the criminal and not the crime.

Judges and criminologists identified some problems with the new law. Because physical maturity often proceeded at a rate different from mental and social growth, it proved difficult for the courts to evaluate correctly the maturity of a suspected serious adolescent offender and thus appraise his or her competency to stand trial. Moreover, some of the most serious cases involved teens who were developmentally impaired and could never be expected to reach the mental and social maturity of an adult. Even at the age of eighteen or nineteen, such individuals would remain on the maturity level equivalent to a young adolescent.⁴² Although this issue generated much discussion among criminologists, in judicial practice such youngsters were often subjected to more severe punishments than regular juvenile offenders despite the decree’s provisions regarding maturity. In one such case, a seventeen-year-old boy who had already been sterilized because of feeble-mindedness was charged with robbery. Even though his level of maturity and understanding were clearly well below that of an adult, he was prosecuted and convicted as a juvenile serious offender and received the relatively harsh sentence of five years in prison. In Rostock, a court indicted a sixteen-year-old who was described as “of average mental development” but of a “degenerate and psychopathic character” for a brutal murder. A court-appointed expert classified the youngster as a “textbook case of an egotistical disposition who in spite of his primitiveness cannot be categorized as retarded but rather as cunning and shrewd.” Although his social and moral development was not that of an eighteen-year-old, the court found him guilty, treated him as an adult, and sentenced him to death.⁴³

Even though such teens clearly did not fit within the letter of the decree, criminologists and judges advanced a broad interpretation that sought to justify their being tried as adults. Arguing that the most dangerous juvenile offenders were often precisely those “whose mental and social values would never reach those of an adult,” Franz Exner, one of Germany’s leading law professors, insisted such offenders must be prosecuted under the new law.⁴⁴ To justify the application of the law to juveniles who did not, in fact, have the maturity of an average adult, Exner resorted to a subjective rather than objective definition of maturity and competency: The question before the court, he contended, was whether the juvenile offender aged sixteen to eighteen had reached “the maturity *he* would have at the age of 19.”⁴⁵ Even if his development was impaired, as long as no change in his development could be expected by age nineteen, he could be treated as an adult. Exner justified this *de facto* expansion of the decree by arguing that teen psychopaths who did not mature along typical lines formed the core of juvenile offenders and would later swell the ranks of habitual offenders. In fact, he wrote,

“[T]his is perhaps the only case where a reliable prognosis of the hardcore criminal can be made.”⁴⁶

In addition to the juvenile offender’s maturity, the decree stipulated that the offender qualify as a so-called serious criminal. Adult punishment could be imposed only if “a particularly reprehensible criminal character [was] demonstrated when committing the offense” and the “protection of the *Volk*” therefore demanded severe punishment. In practice, only one of these criteria needed to apply to the young defendant. Still, jurists debated the legal application of these two clauses and their meaning. Franz Exner viewed the two clauses of the second paragraph as being roughly equal in importance. For Exner, the clause required both a certain kind of individual guilt and a need for protection.⁴⁷ Another group of jurists, however, whose most prominent spokesman was the committed National-Socialist Graf von Gleispach, argued that because the central task of criminal justice was the protection of the *Volk*, the offense need not, in fact, be serious for a juvenile offender to come under the terms of the decree: threatening individuals of any age should be interned and dealt with to “protect the *Volk*.”⁴⁸

In practice, the courts experienced considerable difficulty in deciding when a teenagers’ disposition was “particularly reprehensible and criminal.” Judges looked to several aspects of a defendant’s personality and the actual crime for verification, including motives, behavior of the offender, and the context of the crime. A particularly reprehensible criminal disposition was generally ascribed to juveniles whose offenses were characterized by extremely brutal and senseless violence, a lack of emotion, “a violation of trust against the *Volk* community,” or a vicious attack on a family member or their employer.⁴⁹ Although these personality traits provided the basis for prosecution, they need not be demonstrated by a single criminal act. A series of offenses might confirm a “particularly reprehensible criminal disposition,” even though the crimes themselves were minor. In one case, a seventeen-year-old boy “earned a living by approaching, in most cases, drunken men and engaging in sexual intercourse with them for payment. His purpose was to rob them.” The youngster used the money to support what was described as a comfortable and extravagant lifestyle while wandering throughout Germany, instead of earning a living through honest means, “which he often had opportunity to do.” This string of crimes, and the way in which they were carried out, provided enough justification to prosecute him as a serious offender (*Schwerverbrecher*).⁵⁰

The second clause of the decree called for the “protection of the *Volk*” and was designed to protect what the Nazis called the *Volksgemeinschaft* from serious crime committed by adolescent offenders. In contrast to the subjective nature of a criminal disposition, this clause was concerned with objective circumstances and the conditions surrounding a crime. Its intention was to protect society as a whole. In evaluating whether this section applied, officials reviewed the offender’s

criminal record, his or her behavior, the damage caused by the crime, and the danger resulting from the crimes. The protection of the *Volk* also demanded the prosecution of those youngsters who showed “no inhibitions in committing a crime,” whose prospect of rehabilitation remained slight, who came from a “degenerate, asocial manner of living, or who demonstrate a considerable amount of bad discipline in connection with and indestructible tendency toward committing crimes.”⁵¹

The remaining articles of the decree covered procedural matters. Article II dealt with the prosecution of juvenile offenders by the military. Article III changed several of the penalties that could be imposed on teenage criminals in Austria. Article IV permitted the retroactive application of the decree to defendants whose crimes took place before the decree became law; this did, in fact, occur: a sixteen-year-old boy who had brutally murdered a ten-year-old school-girl at a children’s fair in June 1939 was prosecuted in a widely publicized case. The court found the youngster guilty of murder and sentenced him to death. He was beheaded on 23 April 1940. Article V stated that the decree was also valid for the Reich Protectorate of Bohemia and Moravia as long as “the offender is subject to German court jurisdiction.”⁵²

Judges and criminologists never arrived at a precise definition of what a juvenile serious offender (*jugendlicher Schwerverbrecher*) was. Although most jurists agreed that Article I contained the legal definition that would be binding in court, in the Third Reich law became malleable, subject to interpretations in line with Nazi ideology. As Franz Exner put it: “The concept of a ‘serious criminal’ [*Schwerverbrecher*] is not a simple summation of the two cases cited in the decree. On the contrary, the introduction of this concept has an independent significance. We may and should use this concept for a more precise definition and thereby convert the alleged legal definition.”⁵³

Judicial Practice

Franz Exner doubted that a strict interpretation of the decree could be agreed upon. “Are those whose criminal act indicates a particularly reprehensible disposition really serious criminals?” he asked. “And are all those whose incapacitation the protection of the *Volksgemeinschaft* demands serious criminals?” In many cases they were clearly not, and the responsibility for deciding this rested with the judge. In every case to which the criteria of Article I applied, the judge had to determine if the defendant represented the criminal type identified as a serious offender. Exner maintained that the *Volk*, as the “the source of all law,” must provide the definition, meaning that the definition would remain deliberately vague. “For only through the view of the *Volk* can the legal definition be arrived at in accordance with the living legal consciousness.” Exner wondered aloud who, in

the popular view, would be branded a serious criminal: certainly not a recidivist pickpocket or a marriage swindler, but probably “a burglar who does not shirk from the use of violence.” Exner also believed that the general public would not consider “someone who in a unique, one-time situation [was found] guilty of manslaughter” a serious criminal; there would, he argued, be sufficient understanding of the individual and his circumstances to prevent this.⁵⁴

Others held different opinions. Criminal law professor Edmund Mezger, a colleague of Exner’s on the law faculty of the University of Munich, conceived of the serious offender as an “objective criminal type”—one with readily identifiable characteristics.⁵⁵ Roland Freisler, a high-ranking official in the Reich Justice Ministry, who would later (1942–1945) become infamous as the chief judge of the People’s Court, argued that the framers of the decree had in mind “those youngsters whose hereditary structure already pointed to the criminal path as the most probable.” Freisler later wrote that “this decree applied to the early-maturing serious criminal whose personality, as already reflected in his offenses, and as is already written in the stars, is on the way to becoming outright asocial.”⁵⁶ According to this view, the decree was intended “to lead a preventive fight against all hopeless individuals whose grim future makes them” a threat to society.⁵⁷

The lack of a clear definition of the serious juvenile offender—whether it be a juvenile who simply committed a serious crime, one whose criminal career could not be checked, or a person whose personality fit the criminal type, or any combination of these—placed most of the burden on the courts. The judges relied on expert opinions from specialists, including youth welfare workers and psychiatrists. During pretrial detention, defendants underwent interrogations, evaluations, and psychiatric exams in one of the criminal-biological offices at the juvenile detention center. Such investigations sometimes lasted for several months and provided much of the basis for the prosecution and trial. The results of these evaluations were supposed to aid the courts in deciding whether the defendant did, in fact, have the maturity of an adult at the time of the offense and how his or her behavior might change in the future.⁵⁸

The determination of a young offender’s maturity proved to be a difficult task. How to handle those who would never reach mental and social maturity remained a dilemma. The courts called upon parents, teachers, employers, Hitler Youth officials, and the local youth welfare office to offer insight into a juvenile offender’s character and prospects. Coming from the youth’s immediate environment, the testimony of these individuals served as an important supplement to the psychiatric evaluation. The broadest possible spectrum of opinion was necessary and desirable because the penalties for youths treated as adults were so severe. Most criminologists, in fact, urged caution and restraint and reminded the courts of the exceptional nature of those covered by the decree.⁵⁹ In practice, however, many courts paid little attention to a juvenile offender’s precise level of

maturity; and they often placed greater weight on the impression made by the defendant during the trial than on outside evaluations. It was not unusual to read about a youngster being convicted because he “was clearly aware” of the seriousness of the offense or because he was a “leader.” Court-appointed physicians serving as expert witnesses frequently concurred and supported the prosecution of marginally responsible defendants. Often the trial began long after the crime had been committed, and maturity at the time of the offense was thereby virtually impossible to determine. In one case, the hearing took place fourteen months after an arrest.⁶⁰

Numerous trials illustrate how problematic the courts’ application of the criteria of the decree often was. In August 1941, for example, the *Reichsgericht* reviewed the decision of a Special Court against a seventeen-year-old girl convicted under the provisions of Article IV of the People’s Enemy Decree (*Volkschädlingsverordnung*). Clearly guilty of fraud and falsification of documents, the girl was determined by the court to be a juvenile serious offender because of the severity of the crimes and her adult-like maturity, even though she had no previous criminal record. Of foremost importance in the application of the decree on juvenile serious offenders, the high court decided, was not “whether the defendant possessed the maturity of an 18-year-old when the offense was committed,” but “whether the early maturity of the youth was apparent in a strongly developed moral depravity and a particularly reprehensible criminal disposition.” Moreover, judicial guidelines published in the *Richterbriefe* advised judges that a youth could be prosecuted under the decree if he had reached his final level of maturity, regardless of his actual age.⁶¹

While the exact trends in serious juvenile crime after the passage of the October 1939 Decree for Protection against Juvenile Serious Offenders are difficult to establish, one fact remains clear: serious teenage crime persisted as a major problem for law enforcement officials and the courts. Robberies, brutal beatings, assaults, and murders continued to be reported, and prosecutions rose. In May 1940, for example, the district attorney in Rastadt complained about a “noticeable rise in serious crime among juveniles.” Similar expressions of concern came from Ludwigshafen, where teenagers were implicated in numerous shootings and sexual assaults throughout the spring of 1940. The same year reports from Darmstadt noted a “remarkable rise” in crime committed by youngsters aged fifteen to eighteen years, including robbery, burglary, and manslaughter. In late 1941, officials in Königsberg noted a “striking increase in serious offenses, especially among male adolescents.” Police reports from Nuremberg also complained about the number of serious crimes carried out by teens.⁶² In a summary of juvenile delinquency in late 1941, a Ministry of Justice official summarized the impact of the decree. “On the basis of the Decree for the Protection against Juvenile Serious Offenders of October 4, 1939, three juveniles were sentenced to death in 1939, six in 1940, five during the first quarter of 1941, and two in the second quarter

of 1941,” he reported. The figures continued to rise. In 1942 eight juveniles were convicted of murder, seven of manslaughter, and seventy-five on charges of robbery. The number of those sentenced to death rose to eighteen, and for just the first six months of 1943 that figure went to eighteen.⁶³

Particularly alarming was the fact that many of the worst offenders were under fourteen years of age. The police in Brunn, for example, arrested a thirteen-year-old student in July 1942 for assault with intent to commit murder. Under the pretext of picking up his mother, the youngster hired a taxi and directed the driver to an area outside of Brunn. There, he hit the driver on the head nine times with a hatchet. The boy later told the court that he had simply intended to “make the driver unconscious” and steal the two *Reichsmarks* that he needed to take care of library fines.⁶⁴ In a letter to the Reich Minister of Justice, the district attorney of Zweibrücken described the case of a thirteen-year-old who, during a June 1942 attempted robbery, stabbed the store owner repeatedly in the head and neck. After his arrest, the teen admitted to ten additional thefts, all carried out since 1940. No legal action could be taken against this youth because of his age.⁶⁵ In Berlin, two youngsters, aged thirteen and fourteen, broke into the apartment of a seventy-six-year-old pensioner in search of money. When the woman surprised them, the youngsters tried to strangle her, hit her with a coal shovel, and finally stabbed her to death. In another case, two brothers, one only thirteen, stole three cars at gunpoint and twice shot passengers in the vehicles. While being pursued by an SA patrol, a gunfight broke out during which two SA men and one of the brothers were shot dead. The surviving boy was not prosecuted because of his age.⁶⁶ In Strickhausen, a fifteen-year-old housegirl working for a teacher devised a scheme to leave her service and return to the city: when the initial plan to poison the teacher by putting Lysol in her coffee failed, the girl strangled her with a clothesline.⁶⁷

Plans for Further Legislation

Crimes such as these soon led to calls for additional measures against younger juvenile offenders. In July 1942, the Reich Ministry of Justice responded with draft legislation that would lower the age of legal responsibility and competency further. As an official pointed out, “[I]t has been repeatedly demonstrated during the war that the age limit of the Juvenile Justice Act and for criminal responsibility in general does not insure the protection of the *Volksgemeinschaft*.”⁶⁸ As noted above, juvenile offenders had to be at least fourteen to be prosecuted at all and at least sixteen to be tried as an adult under the 1939 Juvenile Serious Criminal Decree. Citing several particularly reprehensible cases, the Reich Ministry of Justice submitted a draft for a “Second Decree for the Protection against Juvenile Serious Offenders . . . 1942,” which read:

The *Volksgemeinschaft* demands for justified retribution mean that serious juvenile offenders be determined not in accordance with age but rather on the basis of their moral, social, and mental development. The Ministerial Council for the Defense of the Reich thereby orders with the force of law:

Article I: The regulations for the protection against juvenile serious offenders can, with the agreement of the Reich Minister of Justice, also be used against youngsters who at the time of the offense are not yet 16 years old. In the area of Wehrmacht jurisdiction, the agreement of the chief of the OKW is needed.

Article II: (1) Persons who are not yet 14 years of age but who can be considered equivalent to a juvenile [i.e., age fourteen to eighteen] in their social and mental development will be held responsible as a juvenile when the protection of the *Volk* or the particularly reprehensible criminal personality of the offender, as manifested in the crime, require criminal prosecution. (2) Prosecution requires approval of the Reich Ministry of Justice.

Article III: (1) The decree applies to the entire Reich territory. It is applicable in the Protectorate of Bohemia and Moravia in so far as the offender is covered by German legal jurisdiction. (2) The decree can be used against those offenders committed before it took effect.⁶⁹

In short, the draft decree proposed not just to lower but to eliminate the age limit for prosecution in juvenile court (fourteen years) as well as the age limit for prosecution as a juvenile serious offender and therefore as an adult (sixteen years); in both cases, no new, lower age limit was set, but the age limits could simply be disregarded if, in the case of juvenile court prosecutions, the “protection of the *Volk*” or the juvenile’s “reprehensible criminal personality” demanded it or if, regarding adult prosecutions of juveniles, the Reich Minister of Justice approved.

Martin Bormann, head of the Nazi Party Office (Reichskanzlei) and Hitler’s closest adviser, wrote to the Reich Minister of Justice that he approved of the proposed measure, but expressed reservations about publishing the new law and about using the harsher measures to serve as a warning. This legislative action might suggest, he wrote, that the “present wartime situation has led to a brutalization of youth and that the number of capital offenses committed by youngsters has risen to unexpected heights.” Bormann was also worried that “enemy propaganda could in this way get some welcome material.” He therefore suggested that these proposals be incorporated into a more comprehensive reform of the 1923 Juvenile Justice Act. “In this manner the included articles would not be too noticeable, nor would they give reason for excessive comments.”⁷⁰ Bormann was not the only official fearful of calling attention to Nazi Germany’s troubled dealings with violent youths. The Reich Minister of Justice concluded a July 1942 letter by advocating changes in the age of legal responsibility, but he, too, was concerned with the response from abroad: “For reasons of foreign policy, I have composed the draft in such a way that the goals and the affected age levels are less noticeable.” A Ministry of Justice official concurred: “It is impossible at

this time to present such regulations, because it would give the impression that crime among those 14 to 16 years of age rose so much as to make such a measure necessary.”⁷¹

While Bormann and Ministry of Justice officials were cautious, the demands for broadening the jurisdiction for juvenile offenders grew as teenage violent and serious crimes continued to worry Party officials. In a letter of 22 April 1943, an official in the Nazi Party Central Office (Parteikanzlei) wrote to the Minister of Justice complaining about the “alarming number of the most serious crimes committed by youngsters,” and included summaries of thirteen cases—most of which were property crimes—from the first several months of 1943. Some of the offenders were only twelve or thirteen years old and had already carried out multiple burglaries. In Dessau, for example, four pupils between the ages of nine and thirteen stole purses from more than thirty women. Police in Breslau arrested eight teenagers who had burglarized sixteen stores in a single month. Their loot included twenty thousand cigarettes as well as other items that could readily be sold on the black market. Other youngsters targeted unguarded air raid shelters and cellars.⁷² Juveniles were also involved in violent crimes of great brutality. In one case, a fifteen-year-old boy poisoned his sixty-five-year-old grandfather to steal his life savings.⁷³

Another fifteen-year-old boy stabbed his best friend “in a horrible manner” because the youth had wanted to eliminate a small debt he owed. In spite of the seriousness of the offense, the court determined that he did not possess the maturity of an adult. As a court appointed expert stated, “[T]he defendant is no further developed than any of his cohorts.” He was therefore not prosecuted under the 1939 juvenile serious offender decree. In its judgment the court ruled: “It is very possible that the defendant is so morally corrupt that he cannot be rehabilitated. But that does not change the fact that he cannot be punished as an adult.” The court found the youth guilty of attempted murder and sentenced him to ten years’ imprisonment, the maximum penalty allowed for juveniles under existing law. The Minister of Justice was not pleased with the verdict and sent a circular to all judicial offices using this case as an example of the difficulty in prosecuting young defendants as juvenile serious offenders who could be tried as adults. The circular also noted that because the offender—in the view of the court appointed expert—would probably not be any more mature at the age of eighteen, the decree should, in fact, have been applied. The perceived need for additional legislation was increasing.⁷⁴

In spite of legal ambiguities, convictions of juveniles under the 1939 Juvenile Serious Offender Decree continued to climb. In 1942 the number rose sharply to 107, which surpassed the total number of convictions for the previous three years. The figure suggests both an increase in the number of serious crimes and an increased willingness on the part of prosecutors and judges to apply the decree. Among the offenders convicted in 1942, sixteen were arraigned on charges of

murder or manslaughter, a figure much higher than previous years. Still, property crimes remained the most common offenses, amounting to half of all convictions. The courts did not hesitate to hand down severe punishments. Of the 107 youths convicted in 1942, 24 received death sentences and 83 received prison terms of one year or more. During the first two years of the war, capital punishment had been imposed in only nine juvenile cases.⁷⁵

The incidence of serious teenage offenses continued to climb in spite of the draconian sentences. During the first half of 1943, the courts convicted 73 juveniles as “serious offenders,” a rise of 38 percent over the last six months of 1942. One postwar analyst of this development concluded that the courts were dealing more severely with the youths because “human nature cannot undergo such far-reaching changes in six months. It is, therefore, to be assumed that the courts had fewer hesitations about using the decree.”⁷⁶ A Rostock judicial official writing in July 1944 concluded that the overall rise in the number of convictions—and in particular the tougher sentencing—“stand out because the police are more rigorous in their enforcement of the law.” The use of capital punishment went up by 17 percent during the first half of 1943, and more long-term prison sentences were imposed.⁷⁷ Calls for even tougher sentences and a further extension of the death penalty in these cases became more common. Nazi officials, however, continued to fear the adverse publicity, a fact that made them more cautious, for they wanted to keep the extent of the problem secret. Nothing was done until 1943, when the Juvenile Justice Act was revised. Placed where it would attract little outside attention, one of its articles provided for broader use of capital punishment.⁷⁸

The November 1943 Decree on the Simplification and Standardization of Juvenile Criminal Justice (*Verordnung über die Vereinfachung und Vereinheitlichung des Jugendstrafrechts*) effected a complete revision of the Juvenile Justice Act of 1923. The new Reich Juvenile Justice Law (*Reichsjugendgerichtsgesetz*) took effect on 1 January 1944 and marked the culmination of the Nazi regime’s efforts to change the treatment of minors in the criminal justice system. Its Article 20 went significantly beyond the 1939 Juvenile Serious Offender Decree in expanding the courts’ ability to try juvenile offenders as adults. It stated:

The judge can order the use of the general [i.e., adult] criminal code if [the juvenile offender is] morally and intellectually as developed as an 18-year-old or if the healthy feelings of the *Volk* [*das gesunde Volksempfinden*] demands it because of his/her serious criminal intentions or because of the seriousness of the crime.

(2) The same applies if the juvenile’s moral and intellectual development at the time of the crime is not equal to that of an adult but the assessment of his total personality and the offense show that he is a serious criminal with an abnormal character [*charakterlich abartiger Schwerverbrecher*] and that the protection of the *Volk* demand this action.⁷⁹

As soon as the law was published, jurists applauded it as a major reform. Article 20 received attention and praise for more specific reasons. The prominent criminal law professor Edmund Mezger accurately pointed out that it greatly expanded the option of prosecuting juvenile offenders as adults and thus addressed some of the criticisms that had been leveled at the 1939 decree by those eager to impose harsher punishments on juvenile offenders. Under the new law, a youngster no longer needed to be as mature as an adult to be prosecuted to the full extent of the general criminal code. Regardless of a juvenile offender's age or level of maturity, he or she could now be prosecuted as an adult if he or she was a "serious criminal with an abnormal character" and the "protection of the *Volk*" required severe punishment. According to Mezger, the new provision applied to juvenile offenders who had experienced "serious inborn character changes which lead one to call such an individual 'psychopathic.'" His endorsement of the law did not mince words and revealed its draconian intentions: "Practical experience has shown the need for lowering the age of responsibility. A series of cases has proven it necessary to use the death penalty against those under 16 who previously were subject to sentences of up to ten years."⁸⁰

Conclusion

The problem of juvenile crime had long preoccupied German penal reformers, criminologists, and law enforcement officials. The majority of penal reformers in the Imperial and Weimar periods held the view that juvenile offenders must be treated differently from adults: they should be tried in special juvenile courts; be exempt from adult punishments; and, whenever it seemed appropriate, should be sentenced to correctional education in homes for wayward youth rather than a prison sentence. This reformist consensus found its legislative expression in the Juvenile Justice Act of 1923, which stipulated that juvenile offenders between the ages of fourteen and eighteen must be tried in juvenile court. When, in the late 1930s, prosecutors, judges, Nazi party officials, and police and local officials became alarmed by what they perceived as a growing incidence of serious juvenile crime, they decided that it was time to roll back the special treatment that the Juvenile Justice Act had guaranteed youth offenders. The October 1939 Decree for the Protection against Juvenile Serious Offenders therefore allowed some juvenile offenders to be tried as adults so that harsher sanctions could be imposed. But even though Nazi jurists were reversing the pre-1933 reform movement's special treatment of all juvenile offenders, in defining which juvenile offenders could be tried as adults they drew on the penal reform movement's key strategies of categorizing offenders and individualizing punishment: the new criminal type of the *jugendlicher Schwerverbrecher* was essentially a juvenile version of the so-called dangerous

habitual criminal. In doing so, they were shifting the boundary between reformable and incorrigible criminals in ways that circumscribed the scope of rehabilitation and expanded that of repression. Over the course of the Nazi regime, and especially during the war, this boundary kept shifting in the direction of repression and draconian punishment for more and more categories of offenders.

The courts welcomed the 1939 decree and responded by prosecuting increasing numbers of juveniles as adults and issuing harsh sentences including the death penalty. The definition of *jugendlicher Schwerverbrecher* proved malleable. Initially, only juveniles over sixteen who were of adult maturity could be tried as adults. Then the courts decided that even juveniles whose development was impaired but who were as mature as they were ever going to be as adults could be subject to adult punishments. Later, the 1943 decree removed the lower age limit of sixteen as well as the maturity requirement. From now on, juveniles of any age could receive adult punishments (including the death penalty) not only if they possessed adult maturity but also if they were *charakterlich abartige Schwerverbrecher* or if an adult punishment was demanded by “healthy popular feeling” (*gesundes Volksempfinden*). In short, who could be tried as an adult depended not just on the subjective characteristics and alleged competency of the juvenile but also on the supposed attitudes of the “national community” toward the crime and the criminal in question. Thus ambiguous terms such as *Schutz des Volkes* (protection of the *Volk*) or *gesundes Volksempfinden* became legal principles that basically allowed any juvenile to be punished as an adult and condemned to death if the court wished. In this way, criminal justice became a tool in the hands of judges whose main concern were the demands of society as defined by Nazi leaders and Nazi ideology, which became ever more draconian as the wartime situation worsened.

Notes

1. Reichsführer SS, “Bericht zur innerpolitischen Lage, 20 November 1939, National Archives, microfilm T-175, roll 258, frame 750290; “Meldungen aus dem Reich,” January 26, 1940, National Archives, microfilm T-175, roll 2, frame 750700; Reichsminister der Justiz Dr. Thierack, “Die Jugendkriminalität im Kriege,” Bundesarchiv Koblenz, R22/5016; Oberstaatsanwalt München I, “Betrifft: Die Kriminalität der Jugendlichen,” Bundesarchiv Koblenz, R22/1189, Bl. 9–10; “Anzeigestatistik in den Jahren 1939 bis 1942 gegenüber Stafunmündige,” Bundesarchiv Zwischenarchiv Dahlwitz-Hoppegarten, 30.01 9843, Bl. 20–23; Herbert Vornefeld, “Jugendführung gegen Jugendkriminalität: Was lehren die Erfahrungen des Weltkrieges?,” *Das Junge Deutschland* 33 (1 December 1939), 475–479.
2. “Niederschrift über die Besprechung vom 1.2.1940 über Fragen der Jugendbetreuung,” Bundesarchiv Koblenz, R22/1189, Bl. 84–92.

3. Edith Roper and Clara Leiser, *Skeleton of Justice* (New York, 1941), 246–285; quote 248. Roper attributed the rise in teenage violent crime to the social context, viewing crime as learned behavior, much as argued by a contemporary criminologist Edwin A. Sutherland in his *Principals of Criminology*, 3rd ed. (Chicago, 1939).
4. “Verordnung zum Schutz gegen jugendliche Schwerverbrecher vom 4.10.1939,” *Reichsgesetzblatt*, Teil I (1939), 2000; Franz Exner, “Die Verordnung zum Schutz gegen jugendliche Schwerverbrecher,” *Zeitschrift für die gesamte Strafrechtswissenschaft* 60 (1941), 335–337; W. Knopp, *Kriminalität und Gefährdung der Jugend: Lagebericht bis zum Stande vom 1. Januar 1941* (Berlin, 1941), 77, 85; Frank Kebbedies, *Außer Kontrolle: Jugendkriminalität in der NS-Zeit und der frühen Nachkriegszeit* (Essen, 2000), 189–196.
5. “Verordnung zum Schutz gegen jugendliche Schwerverbrecher vom 4.10.1939,” and Dr. Otto Schwarz, *Strafgesetzbuch: Nebengesetze, Verordnungen, Kriegsstrafrecht* 12th ed. (Munich, 1943), 1041–1042; On adult offenders, see Christian Müller, “Das Gewohnheitsverbrechergesetz vom 24. November 1933, NS-Strafrecht zwischen Reformtradition und rassistischer Neubestimmung,” *Zeitschrift für Geschichtswissenschaft* 47 (1999), 965–979.
6. These topics have received much attention in recent years; see Müller, “Das Gewohnheitsverbrechergesetz vom 24. November 1933, 965–979; Dieter Dölling, “Kriminologie im ‘Dritten Reich,’” in *Recht und Justiz im ‘Dritten Reich,’* Ralf Dreier and Wolfgang Sellert, eds. (Frankfurt am Main, 1989), 194–220; Nikolaus Wachsmann, “Annihilation through Labor: The Killing of State Prisoners in the Third Reich,” *Journal of Modern History* 71 (September 1999), 626–635, 658–659; Wachsmann, *Hitler’s Prisons* (New Haven and London, 2004); Wolfgang Ayaß, *Gemeinschaftsfremde: Quellen zur Verfolgung von Asozialen, 1933–1945* (Koblenz: Bundesarchiv, 1998), xi–xx; Patrick Wagner, *Volksgemeinschaft ohne Verbrecher: Konzeptionen und Praxis der Kriminalpolizei in der Zeit der Weimarer Republik und des Nationalsozialismus* (Hamburg, 1996); Richard F. Wetzell, *Inventing the Criminal: A History of German Criminology, 1880–1945* (Chapel Hill, 2000), especially 209–231; Kebbedies, *Außer Kontrolle*, 187–189; and Thomas Roth, “*Verbrechensbekämpfung*” und soziale Ausgrenzung im nationalsozialistischen Köln (Cologne, 2010), 44–47, 157–159.
7. “Tabelle 11: Verurteilungen auf Grund der VP vom 4.X.39,” Bundesarchiv Koblenz, R22/1158; “Entwicklung der Jugendkriminalität auf Grund der vorläufigen Ergebnisse der Reichskriminalstatistik für das 1. Vierteljahr 1941,” Bundesarchiv Koblenz, R22/1158, Bl. 60; Roper, *Skeleton of Justice*, 270–273.
8. Mezger, “Die jugendliche Schwerverbrecher,” in *Zum neuen Jugendstrafrecht* (Berlin, 1944), 87–89; NSDAP Partei-Kanzlei, “Betrifft: Entwurf einer Verordnung über Erweiterungen der Strafmündigkeit,” 26 October 1942, Bundesarchiv Koblenz, R22/1177.
9. Knopp, *Kriminalität und Gefährdung der Jugend*, 81; Karl-Heinz Behm, “Die Kriminalität der Jugend im Spiegel der Kriminalstatistik (1914–1939),” (Diss., University of Heidelberg, 1943), 46, 54, 56; Karl-Heinz Huber, *Jugend unterm Hakenkreuz* (Frankfurt am Main, 1986), 214–223.
10. “Schwere Bluttat in Niederbayern,” *Münchener Neuste Nachrichten*, July 29, 1933; Fritz Weber, “Raubmord eines dreizehnjährigen an einem dreizehnjährigen und seine Aufklärung,” *Kriminalistische Monatshefte* 10 (1936), 59–61.
11. Roper, *Skeleton of Justice*, 246–250, 277–279; the quote is from page 281.
12. Ibid.; Oellermann, “Todesurteil 48 Stunden nach der Mordtat,” *Kriminalistik* 15(1941), 104–105. See the discussion of the impact of Nazi rule on the brutalization of society in Cologne in Roth, *Verbrechensbekämpfung*, 527ff.
13. Knopp, *Kriminalität und Gefährdung der Jugend*, 78–79.
14. “Offenbach, 4. Februar 1939,” Hessisches Hauptstaatsarchiv, Wiesbaden, 4833790.
15. Ursula Uetzmann, “Jugendliche Schwerverbrecher: Eine Untersuchung im Anschluss an die VO zum Schutze gegen jugendliche Schwerverbrecher vom 4. Oktober 1939,” (diss.,

- University of Hamburg, 1940), 4–79; “Raubüberfall am hellen Tag,” *Berliner Lokal-Anzeiger*, 10 August 1938; Fabisch, “Die Straftaten der Gebrüder Sass,” *Kriminalistik* 14 (1940), 85; Kupfer, “Zur Bekämpfung der Autobanditen,” *Kriminalistische Monatshefte* 11 (1937), 65.
16. Oberstaatsanwalt bei dem Landgericht, Hamburg . . . gegen Heinz R, Staatsanwaltschaft Hamburg, 2 Kls 198/39, Rep Nr. 532/1940.
 17. “Entwicklung der Jugendkriminalität,” Bundesarchiv Koblenz, R22/1158, B. 47–50; Knopp, *Kriminalität und Gefährdung der Jugend*, 81.
 18. “Ausrottung des Verbrechertum: Starker Rückgang der Kriminalität im neuen Deutschland,” *Stuttgarter NS-Kurier*, 80, 16 February 1935; Knopp, *Kriminalität und Gefährdung der Jugend*, 49–52.
 19. F. Schaffstein, “Die Bewahrung asozialer Minderjähriger,” *Akademie für Deutsches Recht* 5 (Jahrbuch 1938), 64–69.
 20. “Jugendgerichtsetz. Vom 16. Februar 1923,” *Reichsgesetzblatt*, Teil I (27 February 1923), 135; and Otto Grube, “Das Jugendgerichtsgesetz vom 16.II.1923 und die allgemeinen Verbrechenleben” (diss., University of Kiel, 1928), 2–4, 12–16. Vornefeld, “Jugendführung gegen Jugendkriminalität,” 476. For the case of one youngster who attracted local police attention, see “Das Verhalten der _____, Tochter des Haupm. d. Schupo beim Polizeiamt in Friedberg,” 13 May 1936, Hessisches Staatsarchiv Darmstadt, G15 Friedberg XIX/2 Kono. 3. A. Gregor, “Minderjähriger Schwerverbrecher und ihre strafrechtliche und sozial-pädagogische Behandlung,” *Allgemeine Zeitschrift für Psychiatrie und ihr Grenzgebiete* 114 (1940), 330–336.
 21. Knopp, *Kriminalität und Gefährdung der Jugend*, 80; “Anzeigestatistik in den Jahren 1939 bis 1942 gegenüber Strafmündige,” Bundesarchiv Zwischen Archiv Dahlwitz-Hoppegarten, 30.01 9843; Behm, “Kriminalität der Jugend,” 49–50, 68–70.
 22. Landgerichtspräsident, “Betrifft: Vorschlag einer Änderung strafrechtlicher Vorschriften,” Berlin, 21 November 1938, Bundesarchiv Koblenz, R22/1178. For a discussion of competency see Grube, “Das Jugendgerichtsgesetz vom 16.II.1923, 24–27, and Wolfgang Mittermaier, “Zurechnungsfähigkeit,” in *Handwörterbuch der Rechtswissenschaft*, vol. 6 (Berlin and Leipzig, 1929), 1052–1057.
 23. *Ibid.*
 24. Vornefeld, “Jugendführung gegen Jugendkriminalität,” 476–479.
 25. E. Roesner, “Krieg und Kriminalität im Spiegel der Statistik,” *Blätter für Gefängniskunde* 73 (1942); Exner, “Verordnung,” 335–336; “Anzeigestatistik in den Jahren 1939 bis 1942.”
 26. Oberstaatsanwalt München I, “Betrifft: Die Kriminalität der Jugendlichen”; “Niederschrift über die Besprechung vom 1.2.1940,” Bl. 84–87; Knopp, *Kriminalität und Gefährdung der Jugend*, 80, 82–84.
 27. Exner, “Verordnung,” 335; Karl Heinz Nüse, *Das Kriebsstrafrecht und Kriebsstrafverfahren* (Berlin-Leipzig, 1940), 28–29; Knopp, *Kriminalität und Gefährdung der Jugend*, 84; Graf von Gleispach, “Die Verordnung zum Schutz gegen jugendliche Schwerverbrecher,” *Deutsches Recht* 9 (1939), 1964; Oberstaatsanwalt München, “Kriminalität der Jugendlichen,” 7 December 1939.
 28. Edmund Mezger, *Kriminalpolitik*, 2nd ed. (Stuttgart, 1942), 264–265, the quote is from 265. Dr. Paul Bockelmann, “II. Aussprache,” *Zeitschrift für die gesamte Strafrechtswissenschaft* 60 (1940), 351–352.
 29. Gleispach, “Verordnung,” 1964.
 30. Edmund Mezger, “Kriebsstrafrecht und Kriebsstrafverfahrensrecht,” *Zeitschrift der Akademie für deutsches Recht* 7 (1940), 61; Nagler, “Die jugendliche Schwerverbrecher,” *Gerichtssaal* 115 (1941), 1.
 31. Nagler, “Jugendliche Schwerverbrecher,” 1; Hotes, “Jugendliche Schwerverbrecher,” 9; Nüse, *Das Kriebsstrafrecht und Kriebsstrafverfahren*, 28–29; Reichsfhrer SS und Chef der deutschen Polizei, “Bericht zur innere politische Lage,” Berlin, 19 November 1939, National Archives,

- microfilm T-175, roll 285, frame 2750234; "Lageberichterstattung," Berlin, October 16, 1939, NA, T-175 roll 285 frame 2750089; Dr. Annaliese Ohland, "Todesstrafe—auch für eine Jugendlichen," *Wohlfahrts-Woche*, 14 (February 1940), 103–105; Manuela Neugebauer, *Der Weg in das Jugendschutzlager Moringen: Eine entwicklungspolitische Analyse nationalsozialistischer Jugendpolitik* (Mönchengladbach, 1997), 106–107.
32. Grau, *Deutsches Strafrecht*, 2nd ed., 451–452.
 33. See, for example, Oberstaatsanwalt bei dem Landgericht in Hamburg . . . Günther K. . . . wegen Mordes, Staatsanwaltschaft Hamburg, 2 Js/426/40, Rep Nr. 5191/1940.
 34. "Verordnung zum Schutz gegen jugendliche Schwerverbrecher vom 4.10.1939"; Freisler, Grau, Krug, Rietzsch, *Deutsches Strafrecht*, vol. I, (Berlin, 1941), 259–260; Gleispach, "Verordnung," 1966; Nüse, *Das Kriegsstrafrecht und Kriegsstrafverfahren*, 28–29; Grau, Krug, Rietzsch, *Deutsches Strafrecht*, 2nd ed. (Berlin, 1943), 452. Excluded were juveniles whose cases had opened in a Special Court, a district court, the People's Court, or in the Special Criminal Senate of the Reich Court.
 35. Freisler, *Deutsches Strafrecht*, 260–261.
 36. *Ibid.*
 37. Exner, "Verordnung," 338–339; Fritz Schulz, "Der jugendliche Schwerverbrecher," (diss., University of Munich, 1943), 4–20; Wolfgang Lemme, "Der Begriff des jugendlichen Schwerverbrechers in der Verordnung zum Schutz gegen jugendliche Schwerverbrecher vom 4. Oktober 1939," (diss., University of Göttingen, 1943), 7–10.
 38. Freisler, *Deutsches Strafrecht*, 261; Schulz, "Der jugendliche Schwerverbrecher," 10–15, 22–23; Nagler, "Der jugendliche Schwerverbrecher," 8.
 39. Freisler, *Deutsches Strafrecht*, 261; Exner, "Verordnung," 339; Gleispach, "Verordnung," 1965.
 40. Freisler, *Deutsches Strafrecht*, 262; Dr. Keßler, "Für die Frage, ob es sich um einen jugendlichen Schwerverbrecher i. S. der VO vom 4.10.1939 handelt . . .," *Zeitschrift der Akademie für deutsches Recht* 8 (1941), 86–87.
 41. Lemme, "Der Begriff des jugendlichen Schwerverbrechers," 2, 3, 32–35, 44–45; Sigmund Silbereisen, *Die spätere Straffälligkeit jugendlicher Rechtsbrecher: Eine Nachuntersuchung über die im Jahre 1928 in München verurteilten Jugendlichen* (Leipzig, 1940), 7–8, 57–64.
 42. Exner, "Verordnung," 340–341.
 43. *Ibid.*
 44. On Exner, see Walter Fuchs, *Franz Exner (1881–1947) und das Gemeinschafts Fremdengesetz: Zum Barbarisierungspotenzial moderner Kriminalwissenschaft* (Münster, 2008), and Wetzell, *Inventing the Criminal*, 109–110, 213–219.
 45. Exner, "Verordnung," 341.
 46. *Ibid.*; Lemme, "Der Begriff des jugendlichen Schwerverbrechers," 44, 46; Nagler, "Der jugendliche Schwerverbrecher," 2–6; Schulz, "Der jugendliche Schwerverbrecher," 12–16.
 47. Exner, "Verordnung," 340–341.
 48. Gleispach, "Verordnung," 1965–1966; Nagler, "Der jugendliche Schwerverbrecher," 11–16; Lemme, "Der Begriff des jugendlichen Schwerverbrechers," 45; Schulz, "Der jugendliche Schwerverbrecher," 88–89.
 49. Lemme, "Der Begriff des jugendlichen Schwerverbrechers," 21–23; Schulz, "Der jugendliche Schwerverbrecher," cases 3, 4, 5, 7, 9, 10, 15, 16, 26, and 31.
 50. Gleispach, "Verordnung," 1966; Freisler, *Deutsches Strafrecht*, 263.
 51. Freisler, *Deutsches Strafrecht*, 263; Lemme, "Der Begriff des jugendlichen Schwerverbrechers," 24–27. See Richard J. Evans, *Rituals of Retribution: Capital Punishment in Germany, 1600–1987* (Oxford, 1996), 691, 696, 702.
 52. Nüse, *Das Kriegsstrafrecht und Kriegsstrafverfahren*, 29; Freisler, *Deutsches Strafrecht*, 267; Alfred Kögler, "Über jugendliche Mörder," *Monatsschrift für Kriminalbiologie* 32 (1941), 73–85; Gleispach, "Verordnung," 1967.

53. Exner, "Verordnung," 343.
54. Exner, "Verordnung," 343–345; Lemme, "Der Begriff des jugendlichen Schwerverbrechers," 18–19.
55. On Mezger see Gerit Thulfaut, *Kriminalpolitik und Strafrechtslehre bei Edmund Mezger (1883–1962)* (Baden-Baden, 2000), and Wetzell, *Inventing the Criminal*, 209–213.
56. Mezger, "Der jugendliche Schwerverbrecher," in *Zum neuen Jugendstrafrecht*, 83, 89; Freisler, *Deutsche Justiz* (1940), 53.
57. Freisler, *Deutsche Justiz*; Exner, "Verordnung," 345.
58. Dr. E. Mezger, "Strafrecht," *Deutsches Recht* 11(1941), 1721–1722; A. Gregor, "Zur Frage der Beurteilung jugendliche Schwerverbrecher," *Monatsschrift für Kriminalbiologie* 32 (1941), 282–283.
59. *Ibid.* For a summary of such investigations, see Gregor, "Minderjähriger Schwerverbrecher," 316ff, and Hotes "Der jugendliche Schwerverbrecher," 8. The best discussion of court practices is in Schulz, "Der jugendliche Schwerverbrecher," 108–125.
60. Schulz, "Der jugendliche Schwerverbrecher," 109–112; Gregor, "Beurteilung jugendlicher Schwerverbrecher," 265–283.
61. See Boldt's comments on the decision in *Deutsches Recht* 11(1941), 44–45; *Zeitschrift der Akademie für deutsches Recht* 8 (1941), 86–87; *Deutsches Recht* 11 (1941), 1722–1726; "Richterbrief" Nr. 14 vom 1. November 1943, 112–113, BAK, R22/1177; Johannes Schottky, "Über den Mordversuch eines Jugendlichen bei geplantem Selbstmord," *Monatsschrift für Kriminalbiologie* 32 (1941), 1.
62. Oberlandesgerichtspräsident, "Betrifft: Bericht über die allgemeine Lage," Darmstadt, 10 May 1940, Bundesarchiv Koblenz, R22/3361; Generalstaatsanwalt, "Betrifft: Zweimonatlicher Lagebericht," Zweibrücken, 4 April 1940, Bundesarchiv Koblenz, R22/3389; "Schnellbrief," Kripostelle Ludwigshafen am Rhein, 7 May 1940, Bayerisches Hauptstaatsarchiv, Abt. II, Reichsstatthalter 377; Oberlandesgerichtspräsident, "Betrifft: Bericht über die allgemeine Lage," Darmstadt, 6 September 1941, Bundesarchiv Koblenz, R22/3361. Generalstaatsanwalt bei dem Oberlandesgericht Königsberg, 12 December 1941, Bundesarchiv Koblenz, R22/3375; Nuremberg, 18 September 1941, 27 November 1941, 13 November 1942, Bayerisches Hauptstaatsarchiv, Abt. II, Reichsstatthalter 378.
63. "Herrn Staatssekretär Dr. Freisler. Die Gesamtbewegung der Jugendkriminalität . . .," BAK, R22/1158. Deutsches Reichsamt, "Die Jugendkriminalität im Großdeutschen Reich I Jahre 1942 und 1. Halbjahr 1943," BAK Koblenz, R22/1159, 4, 6, 9.
64. Reichssicherheitshauptamt, Amt V, Berlin, 14 July 1942, Bundesarchiv Koblenz, R22/1179.
65. Der Oberstaatsanwalt, Saarbrücken, 23 July 1942, Bundesarchiv Koblenz, R22/1178.
66. See "Fälle strafunmündiger junger Schwerverbrecher," and "I. Fälle, in denen sich die Anwendung der VO zum Schutz gegen jugendliche Schwerverbrecher beim fünfzehnjährigen als erforderlich erwiesen hat," Bundesarchiv Koblenz, R22/1178, Bl. 190, 240.
67. *Ibid.*; "Fälle 14 und 15 jähriger Schwerverbrecher, bei den die Schwerverbrecher VO keine Anwendung finden konnte," Bundesarchiv Koblenz, R22/1178, Bl. 191 .
68. Reichsminister der Justiz, "Betr. Entwurf einer Verordnung über Erweiterungen der Strafmündigkeit," 3 July 1942, Bundesarchiv Koblenz, R22/1177, Bl. 565.
69. *Ibid.*; "Zweite Verordnung zum Schutz gegen junge Schwerverbrecher, vom . . . 1942," Bundesarchiv Koblenz, R22/1178, Bl. 190 See also the proposed "Verordnung über Erweiterungen der Strafmündigkeit, vom . . . 1942," Bundesarchiv Koblenz, R22/1177, Bl. 566.
70. NSDAP Partei-Kanzlei, "Entwurf einer Verordnung."
71. Reichsminister der Justiz, "Entwurf einer Verordnung"; "Abschrift: Der Chef der Reichskriminalpolizeiamtes . . .," Bundesarchiv Koblenz, R22/1177.
72. Mezger, "Der jugendliche Schwerverbrecher," in *Zum neuen Jugendstrafrecht*, 83, 89; Hotes, "Der jugendliche Schwerverbrecher," 20, 32, 60.

73. "Richterbriefe," Nr. 14, 1. November 1943, Bundesarchiv Koblenz, R22/1177, Bl. 112–113, 119.
74. Ibid.
75. Statistisches Reichsamt, "Die Jugendkriminalität im Grossdeutschen Reich im Jahre 1942 und im 1. Halbjahr 1943," Bundesarchiv Koblenz, R22/1159, Bl. 14; Mezger, "Der jugendliche Schwerverbrecher," 88–89; Bruno Blau, "Die Kriminalität in Deutschland während des zweiten Weltkrieges," *Zeitschrift für die gesamte Strafrechtswissenschaft* 64 (1952), 71.
76. Blau, "Kriminalität während des Weltkrieges," 71; "Jugendkriminalität im Jahre 1942 und im 1. Halbjahr 1943," 14.
77. "Auszug aus dem Bericht des Oberlandesgerichtspräsidenten und des Generalstaatsanwaltes bei dem Oberlandesgericht Rostock, z. Zt. in Schwerin, vom 29.7.1944," Bundesarchiv Koblenz, R22/1176; "Jugendkriminalität im Grossdeutschen Reich im 1942 und 1. Halbjahr 1943."
78. Heinz Kummerlein, "Reichsjugendgerichtsgesetz vom 6. November 1943," (Munich-Berlin, 1944), 162.
79. Ibid.
80. Mezger, "Der jugendliche Schwerverbrecher," 83, 89; Hotes, "Jugendliche Schwerverbrecher," 20, 32, 60.