

According to Law and Order or Personal Profit? The Kripo, Judiciary, and Gestapo in the Nazi Persecution of Sinti and Roma

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Abstract: This article examines the role of the criminal police officers in the persecution and incarceration of Sinti and Roma during the Nazi regime, focusing on the incarceration of individual Sinti or Roma in the years following the outbreak of the Second World War. These cases highlight the interplay between legal frameworks, racial ideology, institutional logics, and situational constraints such as *Lagersperren* – when no one was allowed to leave or enter the camp and no prisoner transports were operating – as well as personal economic enrichment through bribery. The cases reveal how local criminal police officers pragmatically navigated and expanded their powers of repression in the ‘dual state’. They further underline the evolution of repressive practices through the cooperation between criminal police and Gestapo; and through the application of traditional means of transmitting cases to the judiciary in accusation of criminal acts, convictions through courts and imprisonment in jails. By analysing local case files from Magdeburg, Halle, and Berlin, this article shows how criminal police officers used both legal and extra-legal mechanisms to persecute Sinti and Roma, revealing the pragmatic and racialized application of the Nazi ‘dual state’, as well as the officers’ use of agency and bribery for their personal economic enrichment.

Keywords: Criminal police, Gestapo, judiciary, antigypsyism, dual state, bureaucratic perpetration, bribery

Introduction

Date of crime: 15–20 June 1934. Location of crime: Magdeburg. Crime: ‘Fraud by a female Gypsy, bill trap fraud’.¹ These are the main features that the local Burg police authority reported to the district police in Magdeburg on a standardized sheet (developed in the course of the modernization of the crimi-

1 ‘Meldung no. 53. Bekanntter Täter’, criminal police office Burg to criminal police office Magdeburg, 23 June 1934, Landesarchiv Sachsen-Anhalt (hereafter LASA), C 29 app. II, no. 186, fol. 9. I thank Mia Eitel for her support with the language revision.

nal police)² on 'known criminals' (*Bekannte Täter*) after Josefine M. had bought laces described as 'low-quality goods' in a store and paid with a 20 Reichsmark bill. The report indicated she had supposedly performed 'tricks' when paying in order to regain the money that she had used for the payment.³ This incident and report reveal the racial and gendered bias of the criminal police (*Kriminalpolizei*, Kripo) towards Sinti and Roma. The assumption that Sinti and Roma were predisposed to commit specific petty crimes such as this kind of fraud constitutes a stereotype that can still be found in police work today.⁴ On 11 March 1935, Josefine M. was sentenced to three years and five months' imprisonment for theft and fraud by the district court of Annaberg. This highlights the traditional task of the criminal police in investigating crimes and preparing proofs for the judicial persecution of perpetrators of crimes according to the criminal code.⁵ This case exemplifies how long-standing police stereotypes about Sinti and Roma and their ascribed propensity for specific crimes shaped both investigation and prosecution. The handling of such case by the security authorities in the early 1930s stood in a long tradition of antigypsyism and prefigured the racialized criminalization practices that later underpinned the policy of transfers to concentration camps once when this specific group was portrayed as 'work-shy' and supposedly earning their income through criminal acts.

In contrast to the protective police (*Schupo*, *Schutzpolizei* or *Orpo*, *Ordnungspolizei*), criminal police officers did not wear uniforms and pre-

2 Patrick Wagner, *Volksgemeinschaft ohne Verbrecher: Konzeptionen und Praxis der Kriminalpolizei in der Zeit der Weimarer Republik und des Nationalsozialismus* (Hamburg: Christians, 1996), pp. 48–60.

3 Because of the ongoing discrimination of people with certain last names that are generally associated with Sinti, Roma, or Yenish, the author anonymizes last names.

4 Markus End, *Kurzexpertise: Antiziganistische Ermittlungsansätze in Polizei- und Sicherheitsbehörden im Auftrag des Zentralrats Deutscher Sinti und Roma* (Heidelberg: Zentralrat Deutscher Sinti und Roma, 2017); Markus End, *Antiziganismus und Polizei, Schriftenreihe* (Heidelberg: Zentralrat Deutscher Sinti und Roma, 2019), p. xii; Eric Töpfer, 'The EU's Fight against 'Itinerant Crime': Antigypsyist Policing under a New Name?', in *Dimensions of Antigypsyism in Europe*, ed. by Ismael Cortés Gómez and Markus End (Brussels: European Network Against Racism, 2019), pp. 162–179; Bundesministerium des Innern, für Bau und Heimat, *Perspektivwechsel: Nachholende Gerechtigkeit. Partizipation. Bericht der Unabhängigen Kommission Antiziganismus* (Berlin: Bundesministerium des Innern, für Bau und Heimat, 2021), p. 606 <efaidnbmnbbpajpcglclefindmkaj/https://www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/PDF/UKA/Bericht_UKA_Perspektivwechsel_Nachholende_Gerechtigkeit_Partizipation.pdf> [accessed 25 November 2025].

5 Nils Hauser, *Die Berliner Kriminalpolizei in Republik und Nationalsozialismus: Eine rechtshistorische Untersuchung der Wechselwirkungen zwischen Polizeirecht, Strafrecht und Kriminalpolizeipraxis in den Jahren 1925 bis 1937, Beiträge zur Rechtsgeschichte des 20. Jahrhunderts* (BtrRG), 125, (Tübingen: Mohr Siebeck, 2024).

dominantly dealt with investigating and prosecuting crimes. The Kripo was officially established as a separate police branch in Berlin in 1870 and was initially found only in cities.⁶ It cooperated closely with the courts in bringing suspected perpetrators to justice. It was structured according to crime prevention tasks, among which the identification service and the reporting service played a crucial role in collecting and sharing personal data on suspected criminals. The structure involved specialized departments that focused on specific crimes such as murder, fraud or theft, as well as different groups of suspected criminals such as minors. Already in the German Empire and Weimar Republic, the criminal police had specific departments focusing on people stigmatized as 'Gypsies', which highlights the continuity of antigypsy practices in this institution.⁷ Besides the Kripo and Schupo, a third police branch traditionally consisted of the administration police (*Verwaltungspolizei*), dealing with police internal administration task. The Nazi regime outsourced the political police and, with the creation of the Gestapo, established a specific police force focusing on the repression of supposed enemies of the state.⁸

On 8 March 1941, the criminal police office in Düsseldorf labelled Josefine M. as 'asocial' and deported her to Ravensbrück concentration camp.⁹ In this instance, she was no longer a 'perpetrator of an alleged crime', as the criminal police had labelled her before, but became the victim of a state crime implemented by the criminal police itself and enacted through bureaucratic police mechanisms as well as physical violence during the deportation. State officials – mostly jurists as well as experienced police officers – drafted the legal framework for the incarceration in concentration camps ('architects' of the genocide) and local

6 Ibid., pp. 54–55; pp. 168–174; pp. 223–236.

7 Cf. Eveline Diener, *Das Bayerische Landeskriminalamt und seine 'Zigeunerpolizei' (1946 Bis 1965): Kontinuitäten und Diskontinuitäten der Bayerischen Zigeunerermittlung im 20. Jahrhundert*, Schriftenreihe der Deutschen Gesellschaft für Polizeigeschichte e.V., Vol. 25 (Frankfurt am Main: Verlag für Polizeiwissenschaft, 2021), pp. 41–146; Rainer Hehemann, 'Die "Bekämpfung des Zigeunerunwesens" im wilhelminischen Deutschland und in der Weimarer Republik, 1871–1933' (Frankfurt am Main: Haag und Herchen, 1987); Angelika Albrecht, *Zigeuner in Altbayern, 1871–1914: Eine sozial-, wirtschafts- und verwaltungsgeschichtliche Untersuchung der bayerischen Zigeunerpolitik*, Materialien zur bayerischen Landesgeschichte (Munich: Kommission für Bayerische Landesgeschichte, 2002); Juliane Tatarinov, *Kriminalisierung des ambulanten Gewerbes: Zigeuner- und Wandergewerbepolitik im späten Kaiserreich und in der Weimarer Republik* (Frankfurt am Main: Peter Lang, 2015); Marion Bonillo, 'Zigeunerpolitik' im Deutschen Kaiserreich 1871–1918 (Frankfurt am Main: Peter Lang, 2001).

8 Hauser, *Die Berliner Kriminalpolizei*, pp. 54–55; 168–174; 223–236.

9 'Deportation List to Ravensbrück Concentration Camp', 8 March 1941, Arolsen Archives, 1.1.37/129642986, ITS Digital Archive [accessed 1 January 2025].

officers implemented these orders ('organizers').¹⁰ A common feature of state crimes is the criminalization of the victims through the perpetrators, which is also evident in this case.¹¹

This paper analyses the administrative cultures of the criminal police as well as the 'legal framework that guided, motivated, impeded or otherwise influenced the crimes of the perpetrators'.¹² It examines how the administrative culture and legal framework of the criminal police shaped their participation in the persecution of Sinti and Roma. It situates this question within an analysis of traditional means of policing and cooperating with the judicial branch in the prosecution of crimes according to the German criminal code, as well as the new repressive orders introduced by the Nazi dictatorship – thus the 'dual state,' as Ernst Fraenkel called it.¹³ By doing so, it also contributes to situating the crimes of the criminal police in relation to the judiciary or Gestapo, a relationship described as a 'dualism of custody' or 'dual jurisdiction' with regard to the criminal police and the judiciary, or as a 'productive competition' with regard to the Gestapo.¹⁴ This article argues that the criminal police closely cooperated with the Gestapo or relied on traditional judicial procedures for incarceration when they were limited in their ability to apply their own means of imprisonment in a concentration camp.

The choice of whether to follow traditional means of incarceration through convictions by the court or imprisonment in concentration camps or other specific sites of detention during the Nazi period, such

10 Terminology of 'architects' and 'organizers' according to the model developed by Uğur Ümit Üngör, which theorizes how the agency of perpetrators operates across institutional levels. Cf. Uğur Ümit Üngör, 'Perpetration as a Process: A Historical-Sociological Model', in *Perpetrators of International Crimes: Theories, Methods, and Evidence*, ed. by Alette Smeulers, Maartje Weerdesteijn, and Barbora Holá (Oxford University Press, 2019), pp. 117–31.

11 David O. Friedrichs, 'The crime of the century? The case for the Holocaust', *Crime, Law & Social Change*, 34 (2000), pp. 21–41.

12 Thomas Kühne, 'Call for Papers "Holocaust Perpetrators and the Law"', *H-Soz-Kult*, 19 February 2023. <<https://www.hsozkult.de/event/id/event-134078>> [accessed 1 January 2025].

13 Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* with an introduction by Jens Meierhenrich (Oxford: Oxford University Press, 2017). It must be critically acknowledged that Fraenkel wrote as a contemporary observer of the regime rather than a post-war analyst, and that the concept limits itself as a heuristic tool. Cf. Michael Wildt, 'The Political Order of the *Volksgemeinschaft*: Ernst Fraenkel's Dual State Revisited', in *On Germans and Jews under the Nazi Regime: Essays by Three Generations of Historians*; 'A Festschrift in Honor of Otto Dov Kulka', The Richard Koebner Minerva Center for German History, The Hebrew University of Jerusalem, ed. by Moshe Zimmermann (Jerusalem: Hebrew University Magnes Press, 2006), pp. 143–160.

14 Hauser, *Die Berliner Kriminalpolizei*, pp. 96, 400.

as 'labour education camps' (*Arbeitserziehungslager*) by the Gestapo also depended on pragmatic decisions. These were based on situational factors such as temporary admission stops for inmates categorized with the black triangle ('asocials'). Pragmatism always occurred within the universe of Nazi racial ideologies and thus signifies situational opportunism within repressive logics; the term is therefore not morally neutral in this specific context of repression.

Nazi crimes against Sinti and Roma differed from the usual acts of violence against individuals because they were state crimes that constituted genocidal violence. State crimes are – in accordance with international law and modern criminological theories – acts committed in violation of international public law and/or the domestic law of a state by individual actors acting on behalf of the state or in the name of the state.¹⁵ They are also considered state crimes if these acts were additionally motivated by the personal economic, political or ideological interests of the perpetrators, as long as the specific legal context of the state permitted them to commit crimes.¹⁶ Criminal police officers committed Nazi crimes against Sinti and Roma in their official capacity, both on the basis of state instructions as well as on their own initiative. As civil servants, they carried out these crimes and violated the fundamental rights and bodily integrity of those they targeted, often resulting in death. A defining characteristic of these state crimes was the criminalization of the oppressed by the perpetrators in order to 'legitimize' their criminal acts, such as the deportation to concentration camps.¹⁷ Josefine M. was labelled as 'asocial' to fit within the legal framework that permitted the incarceration in concentration camps by the criminal police.

The case studies analysed in the article are taken from the criminal police files of the Magdeburg and Berlin criminal police departments.¹⁸

15 Definition according to Dawn L. Rothe and Christopher W. Mullins. Cf. Dawn L. Rothe and Christopher W. Mullins, 'State Crimes', in *Encyclopedia of Social Problems*, ed. by Vincent N. Parrillo (Thousand Oaks, CA: SAGE, 2008), pp. 897–98; Dawn L. Rothe and Christopher W. Mullins, 'Part One: Crimes of the State', in *State Crimes: Current Perspectives*, ed. by Dawn L. Rothe and Christopher W. Mullins (New Brunswick, NJ: Rutgers University Press, 2011), pp. 23–33, here p. 29; Dawn L. Rothe and David O. Friedrichs, 'The State of the Criminology of Crimes of the State', in *Social Justice*, 33.1 (2006), 147–61, here 151.

16 Rothe and Mullins, 'State Crimes', pp. 897–98.

17 Friedrichs, 'The crime of the century?.'

18 LASA, C 29, app. II, so called 'Gypsy person files' ('Zigeunerpersonalakten'); *Landesarchiv Berlin* (LAB), A Pr.Br. Rep. 030-02-02. The State Archives of Saxony-Anhalt holds a collection of 587 files kept by the Magdeburg criminal police office between 1927 and 1948. The Landesarchiv Berlin holds 174 criminal police files on persecuted Sinti and Roma, constituting only

This type of source is considered by researchers to be a 'key document' for understanding the genocide of Sinti and Roma.¹⁹ Criminal police personnel files are a 'mirror image of police activity' and, due to their dynamic nature, illustrate how the criminal police adapted to specific institutional requirements.²⁰ They need to be analysed critically, as they are shaped by the police gaze and bias, as the introductory example has shown. These files also underline that Kripo officers – including lower ranking ones – had room for manoeuvre and the possibility to interpret central directives locally and apply their '*Eigensinn*' a term Alf Lüdke uses to describe forms of individual agency and how individuals navigate and sometimes subvert institutional power through everyday actions within authoritarian structures.²¹ This becomes evident when questioning the motivation of mid-level perpetrators (organizers), who violated persecution directives, such as those governing transfers to concentration camps. This article argues, based on compensation files from a case from Halle/Saale that have not yet been considered in research, that the perpetrators' personal economic motives intersected with antigypsyist practices, and that corruption and bribery were manifestations of *Eigensinn*, embedded within the broader implementation of racialized persecution practices.²²

Furthermore, this article relies on the analysis of files from the penal prisons in Berlin, i.e. Spandau, Plötzensee and Tegel.²³ The analysis

a small proportion of the original collection destroyed during the war. The latter are accessible online through the Arolsen Archives. Cf. Patricia Pientka, *Das Zwangslager für Sinti und Roma in Berlin-Marzahn: Alltag, Verfolgung und Deportation* (Berlin: Metropol, 2013). The most extensive collection of 810 criminal police 'Gypsy person files' in Cologne was analysed by Karola Fings and Frank Sparing. Cf. Karola Fings and Frank Sparing, *Rassismus – Lager – Völkermord: Die nationalsozialistische Zigeunerverfolgung in Köln* (Cologne: Emons, 2005).

19 Karola Fings and Frank Sparing, 'Vertuscht, verleugnet, versteckt: Akten zur NS-Verfolgung von Sinti und Roma, in *Besatzung und Bündnis: Deutsche Herrschaftsstrategie in Ost- und Südosteuropa*, ed. by Christian Gerlach, Joachim Drews, Thomas M. Bohn, Beiträge zur nationalsozialistischen Gesundheits- und Sozialpolitik, 12 (Munich: Oldenbourg, 1993), pp. 181–201, here p. 187; Josef Henke, 'Quellenschicksale und Bewertungsfragen: Archivische Probleme bei der Überlieferungsbildung zur Verfolgung der Sinti und Roma im Dritten Reich', *Vierteljahrshefte für Zeitgeschichte*, 41.1 (1993), pp. 61–77.

20 Ernst-Heinrich Ahlf, *Polizeiliche Kriminalakten (KpS)*, ed. by Bundeskriminalamt (Wiesbaden: Bundeskriminalamt, 1988), p. 8.

21 Alf Lüdke, 'Fehlgreifen in der Wahl der Mittel': Optionen im Alltag militärischen Handelns', *Mittelweg*, 36, 12 (2003), pp. 61–75.

22 Compensation file of Josef K., Hessisches Hauptstaatsarchiv Wiesbaden (HHStAW), 467/5423.

23 Sixteen files could be identified of people who were persecuted under the stigmatizing label 'Gypsy'. Cf. A Rep. 362, *Strafgefängnis Spandau*, No. 965; A Rep. 369, *Strafgefängnis Plötzensee*, No. 1859, No. 3324, No. 3526, No. 3656, No. 3657, No. 3959, No. 4144, No. 4221, No. 4580, No. 592, No. 254, No. 443; A Rep. 370, *Strafgefängnis Tegel*, No. 1002, No. 15271, No. 15313. There are more

of these files further highlights the cooperation between police and the judiciary in the persecution of Sinti and Roma between 1940 and 1943, and the dense network of carceral spaces, such as penal prisons and concentration camps, which were connected through an infrastructure for prisoner transport dating back to the 19th century.²⁴ Documents from the Arolsen Archives are also used to trace the imprisonment trajectories of the cases analysed in detail.

It can be very illuminating to look at the 'dualism of custody' or 'dual jurisdiction' with regard to the criminal police and the judiciary, as well as at the 'productive competition' between the criminal police and the Gestapo in the period following the outbreak of the Second World War, as this article shows through a careful analysis of individual cases from Magdeburg, Halle, and Berlin.²⁵ This focus further contributes more generally to the historiography on the persecution of Sinti and Roma in this period, which has mostly focused on incarceration during 'Operation Workshy' in 1938 or on the deportations from the German Reich to camps and ghettos in occupied Poland in 1940 and 1943. The article demonstrates the wide array of incarceration options through Kripo, Gestapo, and the judiciary, and particularly their cooperation or differing assessments during the period of radicalization following the outbreak of the Second World War.

No Cognitive Dissonance? The Legal Framework, Ideological Foundations, and Institutional Logics

A distinctive feature of the legal framework of Nazi perpetrators was the rupture with universalist moral concepts as well as with previous liberal legal frameworks that were based on such universalist ideas and placed the individual at the centre.²⁶ Universalistic moralities 'refuse to

files, but these were not marked in the archival finding system as files of people persecuted as 'Gypsies'. Cf. A Rep. 370, *Strafgefängnis Tegel*, No. 10300, No. 10367. For the Magdeburg region, files of the penal prison Coswig for two persecuted Sinti are stored at the Landesarchiv Sachsen-Anhalt in Dessau; cf. (LASA, Z 259, No. 2485; LASA Z 259, *Gefangenenkartei L-R*).

24 Cf. Verena Meier, 'The 'Prevention Department' within the Criminal Police: An Example of Learning Administrations and the Core of Organizing Transports of Sinti and Roma to Concentration Camps', in *Deportations in the Nazi Era – Sources and Research*, ed. by Henning Borggräfe and Akim Jahr (Berlin: De Gruyter, 2023), pp. 181–206, here p. 199.

25 Hauser, *Die Berliner Kriminalpolizei*, pp. 96, 400.

26 Cf. Lothar Fritze, 'Hatten die Nationalsozialisten eine andere Moral?', in *Ideologie und Moral im Nationalsozialismus*, ed. by Lothar Fritze and Wolfgang Bialas (Göttingen: Vandenhoeck & Ruprecht, 2024), pp. 65–106. For discussions on whether the Nazis had a 'morality', see

differentiate between the relative dignity of individuals,' whereas particularistic moralities, such as those pursued by Nazi functionaries, 'do not feel obliged to justify their ethical system to all members of society'.²⁷ Universalist concepts of norms were replaced by a particularism that manifested itself in a 'moral form of communitization' (*moralische Vergemeinschaftung*) with inward-looking social norms.²⁸ As the *Volks-gemeinschaft* differentiated itself hierarchically from other communities, it no longer applied its internal norms and moral concepts to individuals or groups of outsiders, such as the Sinti and Roma, who were regarded as outsiders and 'criminals'.²⁹

Based on these extra-moral convictions, Nazis postulated the primacy of the community, the people, the 'race,' or the state, over the individual. For this overriding purpose, the individual was reduced to a means, and individual rights could be violated in the interests of the *Volks-gemeinschaft*.³⁰ By declaring the preservation and development of the community to be the highest value, the Nazi regime created a new 'order of values'.³¹ The individual thus had value in the Third Reich only insofar as he or she performed a function within the idealized community of the *Volks-gemeinschaft*.³² The assigned value of life was defined according to Nazi ideology and was based on racist and eugenic categorizations as well as on economic and social 'utility considerations', which were measured using the criterion of 'work'.³³ Supporters of so-

Wolfgang Bialas, 'Die moralische Ordnung des Nationalsozialismus: Zum Zusammenhang von Philosophie, Ideologie und Moral', in *Moralität des Bösen: Ethik und nationalsozialistische Verbrechen*, ed. by Werner Konitzer and Raphael Gross (Frankfurt am Main: Campus, 2009), pp. 31–60; Werner Konitzer, 'Moral Oder "Moral"? Einige Überlegungen zum Thema Moral und Nationalsozialismus', in *Moralität des Bösen: Ethik Und nationalsozialistische Verbrechen*, ed. by Werner Konitzer and Raphael Gross (Frankfurt am Main: Campus, 2009), pp. 97–115; Rolf Zimmermann, 'Holocaust und Holodomor: Was lehrt historische Erfahrung über Moral?', in *Moralität des Bösen: Ethik und nationalsozialistische Verbrechen*, ed. by Werner Konitzer and Raphael Gross (Frankfurt am Main: Campus, 2009), pp. 30–60.

27 Anthony Kauders, 'From Particularism to Mass Murder: Nazi Morality, Antisemitism, and Cognitive Dissonance', *Holocaust and Genocide Studies* 36.1 (2022), pp. 46–59.

28 Rolf Zimmermann, *Philosophie nach Auschwitz: Eine Neubestimmung von Moral aus historischer Erfahrung* (Freiburg: Alber, 2020).

29 Zimmermann, 'Holocaust und Holodomor', pp. 17–18; Thomas Kühne, *The Rise and Fall of Comradeship: Hitler's Soldiers, Male Bonding and Mass Violence in the Twentieth Century* (Cambridge: Cambridge University Press, 2017).

30 Ibid., p. 88.

31 Wolfgang Bialas therefore calls this particular understanding of values based on racism 'racial ethics': cf. Bialas, 'Moralische Ordnung', p. 13.

32 Fritze, 'Hatten die Nationalsozialisten eine andere Moral?', p. 89.

33 Horst Schreiber, 'Der Wert des Menschen im Nationalsozialismus', in *Von Menschenhandel und Menschenpreisen: Wert und Bewertung von Menschen im Spiegel der Zeit*, ed. by Andreas

cio-psychological explanations for the Nazi mass violence, such as Harald Welzer, identify the shift from universalism to particularism in the moral framework as a decisive step toward genocidal violence.³⁴ Perpetrators therefore did not perceive their actions as criminal, as 'criminal laws became part of a mirage of law and order'.³⁵

This 'mirage' of legality has been conceptualized by Ernst Fraenkel in his theory of the 'dual state', distinguishing between two coexisting structures in the Nazi regime: the 'normative state' (*Normenstaat*) and the 'prerogative state' (*Massnahmenstaat*).³⁶ Whereas the 'normative state' formally upheld traditional legal rules and bureaucratic procedures, the 'prerogative state' enabled political and police action following the Decree of the Reich President for the Protection of the People and the State of 28 February 1933, including terror, persecution, and genocide carried out according to new criminal orders and based on newly constructed enemy images. The normative state was used to maintain a façade of legality, which was particularly important for economic functionality and certain administrative routines.³⁷ Fraenkel thus highlighted that law was applied differently to insiders and outsiders of the *Volksgemeinschaft*, as 'those who stand outside the community are actual or potential enemies. Relations within the community are marked by the prevalence of peace, order, and justice. Relations with those outside the community are marked by power, war, and destruction'.³⁸

According to the new self-image of the criminal police under the Nazi regime, the 'permanent and complete destruction of the criminal enemy of the people' was to take place.³⁹ Leading Nazi functionaries argued that the destruction of 'criminal elements', among whom they counted Sinti and Roma, could not be achieved through a struggle resembling that of the Weimar Republic as a kind of 'foil fight between the criminal police and criminals'.⁴⁰ This approach to combating crime, they claimed, had resulted from the fragmented organization of the po-

Exenberger and Josef Nussbaumer (Innsbruck: Innsbruck University Press, 2007), pp. 83–107.

34 Harald Welzer, *Täter: Wie aus ganz normalen Menschen Massenmörder werden*, 7th edn (Frankfurt am Main: Fischer Taschenbuch, 2016).

35 Claudia Koonz, *The Nazi Conscience* (Cambridge, MA: Harvard University Press 2003), p. 192.

36 Fraenkel, 'The Dual State'.

37 Ibid.; Wildt, 'The Political Order of the *Volksgemeinschaft*'.

38 Fraenkel, 'The Dual State', p. 141.

39 *Organisation und Meldedienst der Reichskriminalpolizei: Schriftenreihe des Reichskriminalpolizeiamtes Berlin*, ed. by Reichskriminalpolizeiamt (RKPA), 1 (Berlin: Reichskriminalpolizeiamt 1939), p. 11.

40 Ibid. (my translation).

lice at the state level and the criminal police's focus on solving individual crimes and referring cases to the judiciary for prosecution. Leading criminal police officers thus regarded their work during the Weimar Republic as deficient, both under the criminal code and the code of criminal procedure.⁴¹ According to the *Reichskriminalpolizeiamt* (Reich Criminal Police Office, RKPA), 'the possibility of using the criminal police as a preventive weapon to prevent damage to individual members of the population or to national assets was alien to the thinking of the time' and those who warned against limitation were not heeded by the liberal state.⁴² This shift is exemplified in the introductory case of Josefine M., who was initially prosecuted by the Kripo based on antigypsyist thinking and the ascription of criminal activities according to the criminal code, and later on was incarcerated by the Kripo under new repressive measures grounded in Nazi ideology and criminal-biological concepts.

The deputy chairman for police law at the Academy of German Law, Reinhard Höhn, wrote in 1937 with regard the old and new conceptions of police law: 'The criminal police had thus changed from a police force that, according to liberal principles, was geared towards defending against individual cases, to a police force that was based on the protection of the Volksgemeinschaft and that could organize this protection of the community according to plan.'⁴³ The findings of hereditary biology and 'criminal biology' were considered decisive for the new National Socialist understanding of 'crime prevention'.⁴⁴ The criminal police were to place themselves 'more and more at the service of racial and hereditary research', and it was to be an 'essential task of the RKPA to direct criminal research in this field'.⁴⁵

Based on these tendencies in 'criminal biology', the police apparatus increasingly saw itself as medical practitioners, 'hygienists' or surgeons of the 'people's body', which in turn aligned with the widespread 'racial-biological' and 'hereditary-hygienic' ideologies of Nazi propaganda.⁴⁶ The criminal police practices of seizing, singling out, isolating and ultimately exterminating social or 'biologically' deviant and undesira-

41 For the institutional culture of the criminal police during the Weimar Republic and the Nazi regime, see Patrick Wagner, *Volksgemeinschaft ohne Verbrecher*.

42 RKPA, *Organisation und Meldedienst der Reichskriminalpolizei*, p. 16.

43 Reinhard Höhn, 'Altes und neues Polizeirecht', in *Grundfragen der deutschen Polizei*, ed. by Hans Frank (Hamburg: Hanseat. Verlagsanstalt, 1937), p. 31 (my translation).

44 RKPA, *Organisation und Meldedienst der Reichskriminalpolizei*, p. 21.

45 Ibid. (my translation).

46 Melanie Becker, 'Organisationskultur der Sicherheitspolizei im Nationalsozialismus', in *Polizei, Gewalt und Staat im 20. Jahrhundert*, ed. by Alf Lüdtke, Herbert Reinke, and Michael

ble individuals were legitimized by this new self-image, as they served to 'keep the *Volkskörper* clean'. This self-understanding was also evident in local persecution authorities, who were motivated by the ideas of 'social engineering', so that it was not an ideal propagated only by Nazi leaders. The local implementers of persecution orders were inspired by their personal visions of a '*Volksgemeinschaft*' and often guided by individual career ambitions.⁴⁷

Incarceration in concentration camps by the criminal police, 'preventive custody', was regarded by the Nazi functionary elite as an effective new measure for the prevention of crimes. It was a genuinely new means of repression. The 'Habitual Criminals Act' (*Gewohnheitsverbrechergesetz*) of 24 November 1933 was a decisive step towards putting previous criminologist ideas into a practice of persecution.⁴⁸ During the Weimar Republic, criminal police officers such as Erich Liebermann von Sonnenberg or Robert Heindl had advanced the concepts of 'professional criminals' (*Berufsverbrecher*) and 'habitual criminals' (*Gewohnheitsverbrecher*), who were affected by this new repressive measure.

'Preventive custody' usually meant committal to the newly established concentration camps and had already been common practice for 'professional criminals' since 1933, but until 1937 it was based on local regulations issued by the police forces of the federal states.⁴⁹ In the early years, concentration camp imprisonment was largely driven by the initiative of regional and local actors.⁵⁰ After securing power in the course of establishing the Nazi dictatorship, a cumulative radicalization occurred through the 'reciprocal dynamization of local and central authorities', which remained a characteristic of state-organized mass violence even after the centralisation of the criminal police from 1936.⁵¹

Sturm, Studien zur Inneren Sicherheit, Vol. 14, (Wiesbaden: VS Verlag für Sozialwissenschaften, 2011), pp. 249–278.

47 Julia Hörath, '*Asoziale*' und '*Berufsverbrecher*' in den Konzentrationslagern 1933 Bis 1938 (Göttingen: Vandenhoeck & Ruprecht, 2017).

48 Théophile Leroy and Verena Meier, 'Technocrats and Their Tools of Genocide: The Scientific-Police Complex and the Genocide of Sinti and Roma under the Nazi Regime, 1938–1943', in *Genocidal Violence: Concepts, Forms, Impact*, ed. by Frank Jacob and Kim Sebastian Todzi, Genocide and Mass Violence in the Age of Extremes, VI (Berlin: De Gruyter Oldenbourg, 2023), pp. 163–191.

49 Karl-Leo Terhorst, *Polizeiliche planmäßige Überwachung und polizeiliche Vorbeugungshaft im Dritten Reich: Studien und Quellen zur Geschichte des deutschen Verfassungsrechts*, (Heidelberg: C.F. Müller, 1985), pp. 4–7.

50 Hörath, '*Asoziale*' und '*Berufsverbrecher*' in den Konzentrationslagern, pp. 14–15.

51 Wolf Gruner, 'Die Verfolgung der deutschen Juden im NS-Staat 1933–1945: Wechselwirkungen zentraler und lokaler Politik', in *Judenfeindschaft als Paradigma: Studien zur Vorurteilsforschung*, ed. by Wolfgang Benz and Angelika Königseder (Berlin: Metropol, 2002), pp.

Similar to the Gestapo's 'protective custody', 'preventive custody' meant an indefinite incarceration without prior trial, without judgment and without legal protection for the detainee.⁵²

The basic decree on 'Preventive Police Crime Control', issued by the Reich Ministry of the Interior on 14 December 1937, regulated 'preventive custody' and 'police planned surveillance' uniformly throughout the Reich and extended it to other groups of people, such as those designated as 'asocials'.⁵³ This decree provided the criminal police with the legal basis for more 'freedom of action' and increasingly allowed them to take over the tasks of the judiciary.⁵⁴ The inclusion of 'asocials' in particular supposedly proved to be especially effective, as they were 'known to become criminals' or 'the offspring of commercial criminality'. They were regarded as internal enemies and considered 'elements who did not want to join the community of the working people'.⁵⁵ The criminal police and Gestapo transferred a larger number of male Sinti and Roma, Jews and others labelled as 'work-shy' or 'asocial' in April and June 1938 to concentration camps in the German Reich during 'Operation Workshy' (*Aktion Arbeitsscheu Reich*).⁵⁶

With the outbreak of the Second World War and more radical persecution measures, the Nazi leadership pushed forward with deportation of Sinti and Roma into ghettos and camps in the occupied territories of Eastern Europe. In May 1940, the first mass deportations of Sinti and Roma from the territories of West Germany to the occupied General Government began, and approximately 2,500 people were deported. By late 1942, Reichsführer SS and Chief of the German Police Heinrich Himmler issued an order for the deportation of all Sinti and Roma in the Nazi sphere of influence in Europe to Auschwitz-Birkenau. Starting in February 1943, thousands were transported to a design-

130–136; Frank Reuter, 'Zentrale Direktive und lokale Dynamik. Der nationalsozialistische Völkermord an den südwestdeutschen Sinti und Roma', in *Entrechtet – Verfolgt – Vernichtet. NS-Geschichte und Erinnerungskultur im deutschen Südwesten*, ed. by Peter Steinbach and others (Stuttgart: Kohlhammer, 2016).

52 Wagner, *Volksgemeinschaft ohne Verbrecher*; Terhorst, *Polizeiliche planmäßige Überwachung und polizeiliche Vorbeugshaft im Dritten Reich*, xiii.

53 Wolfgang Ayaß, *'Asoziale' im Nationalsozialismus* (Stuttgart: Klett-Cotta, 1995).

54 Terhorst, *'Polizeiliche planmäßige Überwachung'*, pp. 4–7, pp. 56–59.

55 RKPA, *Organisation und Meldedienst der Reichskriminalpolizei*, p. 11.

56 Ayaß, *'Asoziale' im Nationalsozialismus*; Michael Zimmermann, *Rassenutopie und Genozid: Die Nationalsozialistische 'Lösung der Zigeunerfrage'* (Hamburg: Hans Christians, 1996); Fings and Sparing, *Rassismus – Lager – Völkermord*; Meier, 'The 'Prevention Department' within the Criminal Police: An Example of Learning Administrations and the Core of Organizing Transports of Sinti and Roma to Concentration Camps'.

nated 'Gypsy Family Camp' (*Zigeunerlager*) in Auschwitz-Birkenau.⁵⁷ A particular feature of all these deportation decrees was the order not to follow the guidelines of the December 1937 decree on 'preventive custody', which would have required local criminal police offices to request incarceration from the RKPA and await approval. Thus, these central deportation directives gave local authorities considerable leeway in their implementation.

The bureaucratic and hierarchically organized model of modern administrations and police forces was retained in the Nazi state, while deliberately creating open management structures.⁵⁸ This included vague central decrees that allowed subordinate institutions and organizational units room for manoeuvre in their implementation, as was the case in the deportations of Sinti and Roma in 1938, 1940, and 1943. Alf Lüdtke emphasized that possibilities for action opened up in every direction and included acceptance, participation, and acting on one's own initiative on the intermediate level of the 'organizers': 'Each individual made the orders their own, using everyday worldly orientations mixed with ideologically influenced prejudices and Nazi stereotypes.'⁵⁹

The large-scale deportations differed from previous criminal police routines, raising the question of whether the local criminal police officers who organized the deportations experienced distress or cognitive dissonance due to their actions. Christopher Browning argues that, besides situational factors, the socio-psychological concept of cognitive dissonance helps to 'explain the genocidal momentum that can develop among perpetrators'.⁶⁰ Cognitive dissonance arises 'when people behave in ways that violate their own moral standards and this conflict causes distress'.⁶¹ Thus, individuals either change their actions to align with their old beliefs or alter their beliefs if they cannot change their behaviour. Restructuring one's belief system helps to maintain 'con-

57 Zimmermann, *Rassenutopie und Genozid*.

58 Ibid., p. 239.

59 Lüdtke, 'Fehlgreifen in der Wahl der Mittel' (my translation); Gerhard Paul and Klaus-Michael Mallmann, 'Sozialisation, Milieu und Gewalt: Fortschritte und Probleme der neueren Täterforschung', in *Karrieren der Gewalt: Nationalsozialistische Täterbiographien*, ed. by Klaus-Michael Mallmann and Gerhard Paul (Darmstadt: Primus, 2013).

60 Christopher Browning, 'Revisiting the Holocaust Perpetrators: Why Did They Kill? - The Raul Hilberg Memorial Lecture, The University of Vermont, 17 October, 2011', 1-16, <<https://www.uvm.edu/d10-files/documents/2024-10/HilbergLectureBrowning2011.pdf>> [accessed 3 December 2025].

61 Ibid.

gruence between deed and cognition'.⁶² According to Browning, this explains 'the spectrum of response to criminal orders' that were a typical feature of the Nazi state crimes.⁶³

Following his groundbreaking study of Police Battalion 101, many studies in perpetrator history in fact focused on the direct perpetrators of the camps or killing sites, highlighting the importance of 'situational, organizational, and institutional factors operating within a group dynamic' and concluding that Nazi mass violence was the 'product of group dynamic and social interaction'.⁶⁴ The initial killing or maltreatment is thereby conceptualized as distressing, but as violence and time progress the perpetrators 'became brutalized, numbed, and accustomed to what they were doing'.⁶⁵ Thus, 'an initial, relatively inconsequential, evil act can make later evil-doing easier'.⁶⁶ Other studies focused on the Nazi elite of the RSHA, drafting the criminal orders and not experiencing a cognitive dissonance at all, as they were ideologically driven.⁶⁷

The specific group of perpetrators in the criminal police apparatus on all levels did not, in fact, experience cognitive dissonance during the persecution of Sinti and Roma that amounted to the state crime of genocide. While the 'architects' of persecution measures within the RSHA were mostly supporters of the new 'criminal biological' ideas and included these in their orders, criminal police officers from lower-level offices could situate the new persecution measures within the familiar context of policing, thus feeling no distress despite the radicalization of persecution measures. Already in the German Empire and Weimar Republic, the pushback of Sinti or Roma by the police across territorial borders was a common practice.⁶⁸ Gerhard Baumgartner emphasizes with regard to these police practices: 'To many contemporary observers, the National Socialist persecution of the Sinti and Roma must therefore have appeared to be a continuation – albeit an in-

62 Kauders, 'From Particularism to Mass Murder'.

63 Browning, 'Revisiting the Holocaust Perpetrators. Why Did They Kill?'.

64 Ibid, p. 6.

65 Ibid, p. 11.

66 James Waller, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing* (Oxford: Oxford University Press, 2002), p. 205.

67 Michael Wildt, *Generation des Unbedingten: Das Führungskorps des Reichssicherheitshauptamtes* (Hamburg: Hamburger Edition HIS Verlag, 2002); Ulrich Herbert, *Best. Biographische Studien über Radikalismus, Weltanschauung und Vernunft, 1903–1989* (Bonn: Dietz, 1996).

68 Rainer Hehemann, *Die 'Bekämpfung des Zigeunerunwesens' im Wilhelminischen Deutschland und in der Weimarer Republik*; Bonillo, 'Zigeunerpolitik' im Deutschen Kaiserreich.

creasingly radical one – of the already familiar measures of ‘gypsy policy’ of the interwar period.⁶⁹

The following section takes a closer look at the local implementation of ‘preventive custody’ by criminal police officers of the Magdeburg, Halle, and Berlin police authorities. The implementation of this decree is usually examined in connection with ‘Operation Workshy’ in 1938 and the mass deportations to concentration camps by the Gestapo in April and by the criminal police in June.⁷⁰ Considering the period between 1938 and 1943 is also instructive, as persecution measures became increasingly radical and terror became increasingly a routine aspect of daily persecution practice.

The Role of ‘Pragmatic’ Decisions and Situational Factors

The basic decree on ‘Preventive Police Crime Control’ from 14 December 1937, regulated ‘preventive custody’, i.e., the incarceration of individuals designated as ‘work-shy’ or ‘asocial’ in concentration camps by the criminal police.⁷¹ Examining the criminal police’s use of concentration camp imprisonment illustrates how local officers employed detention in concentration camps as a flexible means of repression and labelled the persecuted as ‘asocials’ or accused Sinti and Roma women of fortune-telling in order to match the legal requirements of incarceration. These cases further demonstrate the local initiative and discretionary power in persecution.⁷² Using this measure was, however, not always possible, for example, when the camp commander did not permit the admission of additional inmates marked with a black triangle. The *Lagersperre* thus constituted a situational factor that criminal police officers had to consider when deciding whether to apply ‘preventive custody’. These examples illustrate how selective enforcement reflected the duality of the Nazi state, blending normative legality with prerogative power.

69 Gerhard Baumgartner, ‘Antiziganismus – Janusgesicht des europäischen Kulturerbes’, in ‘... weil ich selber so überrascht war, dass ich so wenig wusste: Eine Studie über den Unterricht zum Schicksal der europäischen Roma und Sinti während des Holocausts’, ed. by Holger Knothe and Robert Sigel (Munich: Herbert Utz Verlag, 2018) pp. 13–25, here p. 18–19 (my translation).

70 Ayaß, ‘Asoziale’ im Nationalsozialismus; Hörath, ‘Asoziale’ und ‘Berufsverbrecher’ in den Konzentrationslagern; Hauser, *Die Berliner Kriminalpolizei*.

71 Ayaß, ‘Asoziale’ im Nationalsozialismus.

72 Cf. Browning, ‘Revisiting the Holocaust Perpetrators’.

Convictions through the Judiciary

Before 1938, incarceration in prisons via courts remained the standard. Afterward, the criminal police could also incarcerate individuals in concentration camps under 'preventive custody'. Prosecution could be biased due to the Nazi ideology or antigypsyism, as the initial example of Josefine M. in the introduction highlighted.⁷³ This bias is also observed in the accusation of fraud through fortune-telling, which reflected a long-lasting, gender-specific antigypsy stereotype.⁷⁴ A RSHA decree from 20 November 1939, specifically targeted 'Gypsy women' accused of fortune-telling and permitted the criminal police to detain the accused in a concentration camp according to the guidelines on 'preventive custody' implemented in this decree.⁷⁵ This was thus a specific persecution measure of the Nazi regime and symbolic of the 'prerogative state'.

In May 1940, the Magdeburg criminal police arrested Emma K. after she had been denounced by a housewife who accused her of fraud through fortune-telling.⁷⁶ She was not immediately transferred to the concentration camps by the criminal police under 'preventive custody' but was detained in the court jail until she was presented to a judge on 10 June, who did not issue an arrest warrant. Although the prosecution may have been biased by antigypsy prejudice, this episode highlights the functioning of the 'normative state', as the judge refused to issue a warrant due to insufficient legal grounds.

Nonetheless, the Magdeburg criminal police arrested her again on 12 June 1940, placed her in a police prison, and wrote a request for 'preventive custody' in a concentration camp on the same day, illustrating the logic of the 'prerogative state'. The Magdeburg criminal police argued to the RKPA: 'It is therefore urgent to take her into 'preventive custody' on the basis of the aforementioned legislation in order to protect the population from further harm and also to have a deterrent

73 'Meldung No. 53. Bekanntes Täter', criminal police office Brug to criminal police office Magdeburg, 23 June 1934, LASA, C 29 app. II, no. 186, fol. 9; 'Deportation List to Ravensbrück Concentration Camp', 8 March 1941, Arolsen Archives, 1.1.37/129642986, ITS Digital Archive [accessed 1 January 2025].

74 Verena Meier, 'Fortunetelling as a Fraudulent Profession? The Gendered Antigypsyist Motif of Fortunetelling and the Persecution by the Criminal Police', *Critical Romani Studies*, 5 (2023), pp. 30–48.

75 Decree RSHA, Amt V (RKPA), no. 60.01/474.39, signed by Paul Werner, 20 November 1939, LASA, C 30 Osterburg A, no. 161, fol. 33.

76 Ibid., fol. 41.

effect on other Gypsies'.⁷⁷ According to the guidelines of the intermediate-level police offices, such as Magdeburg, these offices drafted requests, but the higher authority of the RKPA in Berlin had final control. This action further underlines that the criminal police could refer to their own means of incarceration in a concentration camp without requiring a court decision. It also highlights the relevance of 'enemy images' and the supposed protection of the *Volksgemeinschaft* in measures of the 'prerogative state'.

This request was drafted by low-ranking criminal police officers but not signed by their director. A corresponding letter from the RKPA to confirm or reject the request is missing, and the case hints at an intervention by the head of the Magdeburg criminal police. The case was closed on 14 June 1940, with the remark that Emma K. was handed over to the labour office to be placed in permanent work, which constituted another compulsory measure in cooperation with the labour office.⁷⁸

Another case from April 1941 demonstrates that a Sinti or Roma woman was in fact tried by a court. She was accused of targeting elderly women at home and in nursery homes and providing fortune-telling or 'healthy prayers' for them in March 1941.⁷⁹ The criminal police office in Magdeburg did not rely on the decree to transfer her to a concentration camp but kept her in the police custody until she was tried by the district court. She was sentenced to five months' imprisonment on 24 April 1941, for theft.⁸⁰ In this case, fortune-telling was regarded by the Kripo as trickery and preparation for theft and was handled through the means of the 'normative state'.

Finally, the example of Roman J. from Berlin exemplifies the close cooperation between judiciary and criminal police and the diffusion of the 'normative state' and the 'prerogative state' between 1940 and spring 1942.⁸¹ He had been imprisoned in Sachsenhausen concentration camp on the basis of 'preventive custody' but was transported from there to the remand prison Berlin-Moabit on 6 January 1940.⁸² His files

77 Ibid., fol. 44 (my translation).

78 Ibid., fol. 50.

79 Meier, 'Fortunetelling as a Fraudulent Profession?'; cf. LASA, C 29, app. II., no. 493, fol. 30.

80 Ibid., fol. 42.

81 This cooperation fell outside the Himmler-Thierack Agreement of 18 September 1942, which ordered all the judicial authorities to transfer 'asocial elements' directly and without trial to concentration camps for 'extermination through work'; cf. Zimmermann, *Rassenutopie und Genozid*, pp. 300, 311.

82 'Certification of Arrival by the Remand Prison Berlin-Moabit', 6 January 1940; 'Certification by the administration of the Sachsenhausen Concentration Camp over Material Goods of the

reveal that the 'Department for Gypsy Question' at the Berlin criminal police office served as the intermediating institution and that the concentration camp, the prisons and the RKPA administered such procedures via the responsible criminal police authority.⁸³ On 22 January 1941, he was tried by the city court of Berlin (special court) and sentenced to one year and three months' deprivation of liberty in the penal prison Plötzensee.⁸⁴ He was accused of violating the war economy regulation of 4 September 1939, by trading fabrics without trade licenses.⁸⁵ The district court argued that he 'endangered society' by withdrawing vital goods for daily use from the population. The court acknowledged in favour of the accused his family's difficult financial situation and the fact that he had no previous convictions. A note in the written transcript suggesting that 'Gypsies' tend to violate the law and thus need particularly severe punishment was eventually crossed out by the three signing judges, which may be interpreted as a pushback against overt racial prejudice in the wording of the verdict.

Less than three months after this verdict, the RKPA ordered that the convict be returned to the criminal police after serving his sentence in order to put him in 'preventive custody' in a concentration camp again.⁸⁶ The prison director eventually advised against his early release for 'educative reasons', even though the convict adhered to prison rules and demonstrated 'good work performance'.⁸⁷ On 2 April 1942, he was released from the penal prison after serving the full term and was then imprisoned in Sachsenhausen again.⁸⁸

Despite already having been incarcerated by the criminal police in a concentration camp where he could have remained for an indefinite

Prisoner Sent from the Effektenkammer to the Remand Prison Berlin-Moabit', 8 January 1941, LAB, A Rep. 369 Strafgefängnis Plötzensee, no. 592.

83 'Letter of the District Court in Berlin to the Remand Prison at Lehrter Strasse in Berlin-Moabit', 7 March 1941, LAB, A Rep. 369 Strafgefängnis Plötzensee, no. 4580.

84 'Verdict of the District Court Berlin', 22 January 1941, LAB, A Rep. 369 Strafgefängnis Plötzensee, no. 592.

85 The same accusation can be found in LAB, A Rep. 369 Strafgefängnis Plötzensee, no. 254.

86 'Letter of the Attorney General at the District Court in Berlin to the Director of the Penal Prison in Berlin-Plötzensee', 5 April 1941, LAB, A Rep. 369 Strafgefängnis Plötzensee, no. 592.

87 'Evaluation of the Director of the Penal Prison in Berlin-Plötzensee', 23 May 1941, LAB, A Rep. 369 Strafgefängnis Plötzensee, no. 592 (my translation); 'Certificate for the Effektenkammer of the Sachsenhausen Concentration Camp', 16 April 1942, Arolsen Archives, ITS Digital Archives, 1.1.38/4099158 [accessed 1 January 2025].

88 'Dismissal Hearing', 2 April 1942, LAB, A Rep. 369 Strafgefängnis Plötzensee, no. 592; 'Registration by the effects chamber of the concentration camp Sachsenhausen', 16 April 1942, Arolsen Archives, ITS Digital Archives, 1.1.38/4099158 [accessed 1 January 2025].

period, according to the assessment of the RKPA, the legal prosecution of the alleged crime continued slowly. This highlights that the criminal police and the judiciary were not competing institutions but instead worked closely together – each reinforcing the other in a system where the ‘normative state’ and the ‘prerogative state’ blended within the apparatus of repression. These cases illustrate a bureaucratic continuum in which judicial and police authorities mutually reinforced punitive measures against Sinti and Roma. There was a functional cooperation: courts could punish under law, while the criminal police could override or extend punishment extra-legally based on new directives from 1937 on ‘preventive custody’. There were no longer any ‘double jeopardy’ limits, as the RKPA arranged for him to be taken straight back into police custody and sent to Sachsenhausen again, even after serving his judicial sentence in Plötzensee prison.

Relying on the Gestapo’s ‘Labour Education Camps’

The criminal police worked hand in hand with the Gestapo and also used their ‘labour education camps’ from 1940 onward as another means of incarcerating persecuted Sinti and Roma. These camps were set up throughout the German Reich from 1940 and run by the *Stapo-leitstellen*. Employers could send their employees to these camps for up to 56 days via the ‘*Reichstreuhänder der Arbeit*’ (Reich Trustee of Labour) and the Gestapo.⁸⁹ This reflects the ‘prerogative state’ at its core: administrative arbitrariness allowed employers and the Gestapo to circumvent the judiciary entirely, using the ‘labour education camps’ to enforce discipline and control. The following cases further highlight that Kripo was in fact also an institution that reported people to the Gestapo for incarceration, meaning that another agency was involved besides the *Reichstreuhänder der Arbeit*, which has not been dealt with in current research yet.⁹⁰

89 Marc Buggeln and Michael Wildt, ‘Arbeit im Nationalsozialismus (Einleitung)’, in *Arbeit im Nationalsozialismus*, ed. by Marc Buggeln and Michael Wildt (Munich: De Gruyter Oldenbourg, 2014), pp. IX–XXXVII, here p. XXII.

90 The positions of *Reichstreuhänder der Arbeit* (Reich Trustee of Labour) were established in May 1933 in the course of the *Gleichschaltung* and the destruction of labour unions, when 22 Nazi representatives dealt with conflicts between companies and employees in the Reich Ministry of Labour; cf. Sören Eden, *Die Verwaltung einer Utopie: Die Treuhänder der Arbeit zwischen Betriebs- und Volksgemeinschaft 1933–1945* (Göttingen: Wallstein, 2020), pp. 345–353.

The Magdeburg criminal police and their colleagues from the 8th District Protective Police carried out regular checks in the 'communal detention camp' to verify attendance at the work sites.⁹¹ On 22 April 1941, a police raid, called 'major inspection,' took place in the camp, during which criminal and protective police officers arrested 13 Sinti and Roma and transferred them to the Magdeburg police prison.⁹² The reason given for the arrest was 'refusal to work'. The detainees under police custody were between 14 and 34 years old and mostly female: ten were young women (14 to 34 years old) and three were young men (18 to 27 years old). The enforcement of compulsory labour also increasingly affected young people and women around 1941-42, after many of the younger male Sinti and Roma had been incarcerated during 'Operation Workshy'. Following several raids in 1941 and 1942, at least four young Sinti women who had been employed at the Röhrig sack factory or the Arndt Reif paper goods factory were sent to a Gestapo labour education camp for women – presumably the one in Schillerstraße in Magdeburg – for several weeks, as a result of cooperation between the companies, the Kripo and the Gestapo.⁹³ At this time, a temporary *Lagersperre* for inmates with a black triangle existed in the women's concentration camp at Ravensbrück.⁹⁴

Furthermore, the criminal police relied on Gestapo colleagues and their incarceration facilities in times of a *Lagersperre*, as another case following the deportations to Auschwitz-Birkenau in spring 1943 exemplifies. Paul G. managed to evade deportation by fleeing Magdeburg in

91 'Letter, criminal police office Magdeburg to criminal police office Berlin', signed by Brinker, 24 February 1941, LASA, C 29 app. II, no. 502, fol. 16.

92 'Prisoner Book Magdeburg Police Prison', LASA, C 29 app. III, no. 13, registration numbers 193-205.

93 'Report of Inspection', signed by criminal police officer Richmann, 28 November 1941, BArch, MfS, BV Magdeburg, Ast 348/48, fols 52-56; 'Letter from Curt Röhrig to the Magdeburg criminal police office for the attention of Becherer, 3 August 1942, LASA, C 29 app. II, no. 407, fol. 8; 'Notice of admission to the police prison', 8 August 1942, LASA, C 29 app. II, no. 407, fol. 9; 'Copy of letter from Magdeburg criminal police office to Magdeburg State Police Headquarters (Gestapo), subject 5 K 1094/H42; K 1094/H4', signed Becherer, 13 August 1942, LASA, C 29 app. II, no 407, fol. 10; Official note on the petition by the father of Adelheid K., signed by Becherer and Brinker, 2 September 1942, LASA, C 29 app. II, no. 423, fol. 50; 'Letter from the Magdeburg criminal police office to the Magdeburg Gestapo', 10 September 1942, LASA C 29 app. II, no. 461, fol. 27.

94 'Letter by the RKPA to Magdeburg criminal police department', 20 May 1941, signed Böhlhoff, LASA, C 29 app. II, no. 297/2, fol. 18; 'Letter by the Magdeburg criminal police department to the RKPA', 7 July 1941, signed Oberbeck, LASA, C 29 app. II, no. 297/1, fol. 23. For the gendered dimensions of persecution, cf. Verena Meier, 'Sintizze und Romnja im Nationalsozialismus – Geschlechterhistorisch-differenzierte Perspektiven auf den NS-Völkermord und die Erinnerungsgeschichte', *Digitales Deutsches Frauenarchiv*.

March 1943 and was ultimately transported to Auschwitz on 12 October 1943, after the temporary closure of the camp for hygienic and sanitary reasons was lifted. Paul G. had been wanted by the *Staatspolizeileitstelle* Magdeburg (Gestapo) for breach of his employment contract following his flight.⁹⁵ Once he was caught in the district of the criminal police in Hannover, the Magdeburg criminal police and Gestapo agreed in mid-June to transfer him in a 'labour education camp', where he was to be 'beneficially employed' during the *Lagersperre* in the 'Gypsy family camp' in Auschwitz-Birkenau.⁹⁶ After two months of imprisonment in the 'labour education camp' in Hallendorf, the Magdeburg *Staatspolizeileitstelle* reported to the Kripo on 25 August 1943, that Paul G. had been released and was again 'available for further action'.⁹⁷ The criminal police then prepared the paperwork for 'preventive custody' at the end of August, and these applications were confirmed by the RKPA in Berlin more than a month later at the beginning of October, after which he was to be sent in a collective transport to Auschwitz I (Monowitz).⁹⁸ Paul G. was eventually sent to Auschwitz II, the Auschwitz-Birkenau extermination camp. He was listed as 'Z-8781' in the main register of the 'Gypsy family camp' for male prisoners and died there less than six months later, in February 1944.⁹⁹

Cases from the penal prisons in Berlin exemplify that the Berlin criminal police authority also had Sinti convicted by the district court (*Amtsgericht*) for *Arbeitsverweigerung* (refusal to work).¹⁰⁰ This conviction was based on a special legislation for the judiciary from 1941 and again attest to the blending of the 'normative state' and the 'prerogative state'.¹⁰¹

95 'Telegram from the criminal police authority in Hannover to the criminal police Magdeburg', 10 June 1943, LASA, C 29 app II, no. 413, fol. 20.

96 'File note and transcript of a letter from the criminal police Magdeburg to the Staatspolizeileitstelle Magdeburg', K. MD. 2246/43, 23 June 1943, LASA, C 29 app. II, no. 413, fol. 26 (my translation).

97 'Letter by the Staatspolizeileitstelle Magdeburg to the Magdeburg criminal police office', 25 August 1943, LASA, C 29 app. II, no. 413, fol. 27.

98 'Letter from the Magdeburg criminal police office to the superior criminal police authority in Halle', 20 October 1943, LASA, C 29 app. II, no. 413, fol. 35.

99 'Page from the ledger of the so-called "Gypsy family camp" at KL Auschwitz-Birkenau (1943-1944): Male prisoners (Number Series 1-10094), Arolsen Archives, ITS Digital Archives, 1.1.2.1/530982 [accessed 1 January 2025].

100 Verdict of the District Court Berlin, 3 February 1941, LAB, A Rep. 369 Strafgefängnis Plötzen-see, no. 3324.

101 Reich Ministry of Justice, Subject: Implementing Regulation for the Criminal Treatment of Refusal to Work, 3 June 1941, Bundesarchiv (BArch), R 3001/22781, fol. 89.

Long-term Imprisonment in Police Prison

The criminal police thus had multiple means to incarcerate Sinti and Roma, including traditional judicial sentences and 'preventive custody' in concentration camps or cooperating with the Gestapo and their 'labour education camps'. Sometimes, the concentration camps could no longer accommodate prisoners of this category, or were closed for hygienic and sanitary reasons, as the case of Paul G. demonstrated.¹⁰² The police could then keep the persecuted in their own police prisons until new transfers were possible. This was also the case for Emilie W. in spring 1941, when inmates with a black triangle were to be transferred to the female concentration camp Ravensbrück only as an exception.¹⁰³

The criminal police officer in charge of 'Gypsy affairs' then turned to the RKPA and asked for instructions, noting at the same time that Emilie W. had already been in police custody for almost three months and that the 'police custody imposed [...] had apparently made a lasting impression on her,' while arguing for a release.¹⁰⁴ The RKPA nevertheless ordered that the prisoners be sent to Ravensbrück, but this was to take place on the following collective transport on 25 July 1941.¹⁰⁵ This case underlines that both situational factors, such as the *Lagersperren*, and hierarchical structures limit local initiatives and the enactment of *Eigensinn*.

Whereas 'preventive custody' of individuals depended on the approval of the RKPA, criminal police offices could also collaborate with the Gestapo, as the other cases from 1942 have shown, to achieve incarcerations and use other means of repression. This ambiguity, which derived from situational factors, epitomizes Fraenkel's concept of the dual state in practice. These cases furthermore hint at the scope of action available to lower-ranking police officers when drafting requests for incarceration in camps or convictions through courts. They also attest that the approval had to be obtained from higher-ranking superiors within their institution. In the case of 'preventive custody' the high-

102 Letter by the RKPA to the Magdeburg criminal police office, 20 May 1941, signed by Böhlhoff, LASA, C 29 app. II, no. 297/2, fol. 18.

103 Letter by the RKPA to Magdeburg criminal police department, 20 May 1941, signed Böhlhoff, LASA, C 29 app. II, no. 297/2, fol. 18; Letter by the Magdeburg criminal police office to the RKPA, 7 July 1941, signed Oberbeck, LASA, C 29 app. II, no. 297/1, fol. 23.

104 Letter from the Magdeburg criminal investigation department to the RKPA, 7 July 1941, signed Oberbeck, LASA, C 29 app. II, no. 297/1, fol. 23.

105 Letter from the RKPA to the Magdeburg criminal police office, 11 July 1941, signed by Böhlhoff, LASA, C 29 app. II, no. 297/1, fol. 24.

er-ranking police institution, the RKPA in Berlin, additionally needed to approve incarceration in a concentration camp. Thus, the incarceration of individuals in a camp was always also a process of administrative negotiation between the Kripo and Gestapo, between different hierarchical units of the Kripo, and among officers of different ranks within one institution. Besides the perpetrator's own motivations and ideological worldviews, institutional as well as situational factors, such as the *Lagersperren*, shaped the course of action of perpetrators and the trajectory of the persecuted within the Nazi camp system.

The Role of Personal and Economic Enrichment

Finally, another case illustrates the role of personal and economic enrichment in the persecution of Roma and Sinti. Mid-level Nazi perpetrators from the criminal police assisted the persecuted, using their own local agency and *Eigensinn* in interpreting and applying the rules to serve their self-interest. This case is transmitted through compensation files of a Roma survivor from Halle/Saale. Bribery, which has been more extensively studied in other contexts such as Jewish forced labour exemptions, 'Aryanization' deals, and black-market rationing, is a topic that has not yet been examined in the context of the Nazi persecution of Sinti and Roma outside of the state's confiscation of property during deportations to Auschwitz-Birkenau.¹⁰⁶ Cases like this challenge the overall assumption of poverty among persecuted Sinti and Roma.

After the war, in compensation claims for damages to property, Josef K. and his wife Rosa K. testified that they managed to evade the deportations to Auschwitz-Birkenau with their children in March 1943, with the help of Detective (*Kriminalkommissar*) Weber, who arranged a Hungarian passport and visa for them to escape to Hungary.¹⁰⁷ The family stayed from fall 1943 to 1945 in the Hungarian border town of Grosswardein, today Oradea in Romania.

The family had lived in a two-room apartment in Halle/Saale (Georgstrasse 2), which also included a shop and storage space, and

¹⁰⁶ Cf. Frank Bajohr, 'Aryanisation' in Hamburg: *The Economic Exclusion of Jews and the Confiscation of their Property in Nazi Germany*, (New York: Berghahn Books 2002); Malte Zierenberg, 'Berlin's Black Market: 1939–1950', (Basingstoke: Palgrave Macmillan, 2015); Josefine Ulbricht, *Das Vermögen der 'Reichsfeinde': Staatliche Finanzverwaltung und Gegnerverfolgung im nationalsozialistischen Deutschland*, (Berlin/Boston: De Gruyter Oldenbourg 2022).

¹⁰⁷ 'Eidesstaatliche Erklärung by Josef K.', 9 July 1951, HHStAW, 467/5423, fol. 11; 'Eidesstaatliche Erklärung by Rosa K.', 9 July 1951, HHStAW, 467/5423, fol. 10.

earned a good income as fur and fabric traders. In order to receive the papers to leave Germany, Josef K. paid a total of around 100,000 Reichsmarks. The Kripo officer had already helped Josef K. after his arrival in Halle with his family in 1938. They had had a permanent apartment in Eschweiler before, but following the 'Immobilization Decree' of 1939, the family was no longer permitted to leave Halle/Saale.¹⁰⁸ The survivor recalled: 'I had persuaded him to help me by offering him a large sum of money and valuables.'¹⁰⁹ With this support from a Kripo officer responsible for 'Gypsy affairs' in Halle, the survivor managed to continue his trade until early 1943. When Josef K. was denounced and accused of violating economic regulations, the Kripo officer supported him by arguing that these accusations were unfounded.¹¹⁰ This case thus contrasts with the aforementioned case of Roman J., who traded in fabrics in Berlin and was sentenced by a court one year and three months' deprivation of liberty in Plötzensee prison for violating the war economy regulations, and who did not get such an institutional backing from the Kripo in the interpretation of his alleged crime.¹¹¹

The Kripo officer told Josef K. in September 1943 that he could no longer help him and that he needed to escape from the German Reich with his family. This was after most Sinti and Roma had already been deported and when the *Lagersperre* at the 'Gypsy family camp' in Auschwitz-Birkenau was lifted, and the Kripo targeted all remaining Sinti and Roma for incarceration.¹¹² The family stayed in the Hungarian border region with Romania and lived off selling their valuables they had taken with them.¹¹³

108 Interrogation of the applicant Josef K. 17 August 1951, HHStAW, 467/5423, fol. 30–31. Karola Fings, 'Immobilisation', in: *Encyclopaedia of the Nazi Genocide of the Sinti and Roma in Europe*, ed. by Karola Fings, Research Centre on Antigypsyism at Heidelberg University, Heidelberg 5 March 2024, <<https://encyclopaedia-gsr.eu/lemma/immobilisation-en-1-0/?oes-language-switch=language>> [last accessed 11 October 2025].

109 'Public hearing of the 1st Compensation Chamber at the District Court in Wiesbaden', 17 August 1951, HHStAW, 467/5423, fol. 16–18.

110 'Letter by Detectiv Weber to Dr. jur. H. Henn in Wiesbaden', 24 May 1946, HHStAW, 467/5423, fol. 58.

111 'Verdict of the District Court Berlin', 22 January 1941, LAB, A Rep. 369 Strafgefängnis Plötzensee, no. 592.

112 Fings, Sparing, *Rassismus – Lager – Völkermord*, pp. 240–246.

113 'Public hearing of the 1. Compensation Chamber at the District Court in Wiesbaden', 17 August 1951, HHStAW, 467/5423, fol. 16–18. Although Josef K. considered himself as a Hungarian citizen, who was born in Belgium, he had difficulties to obtain the Hungarian citizenship when being there, which in consequence caused the Hungarian offices to deny him trade licenses.

The testimony by Josef K. and Rosa K. was further supported by the merchant Erich Karf, co-owner of the company Walta & Co., wholesale fabrics and fabric cutting in Halle, as well as by the Kripo officer Weber himself – both of whom were living in the Soviet Occupation Zone and later German Democratic Republic, while the survivor and his family lived at the time in West Germany.¹¹⁴ Erich Karf further highlighted that police officers often visited Josef K.'s apartment and that Josef K. had told him that these visits were always very expensive due the drinks and 'presents' the police officers requested.

Rather than being driven by ideologically motivated resistance or empathy, Detective Weber's agency was shaped by material opportunism and the grey zone of Nazi administrative practice. As a mid-level organizer and head of the 'Gypsy affairs' department at the district criminal police Halle, responsible for the entire Prussian Province of Saxony and directly subordinated to the RKPA he made use of his institutional latitude and retained discretionary power in applying regulations and classifying cases. The case highlights that Kripo officers were not merely executors of orders but actors navigating overlapping systems of legal frameworks for persecution and the local scopes of action for interpreting and applying repression measures. Economic motives and corruption practices were embedded in the context of racial policies, which Kripo officers exploited for their personal enrichment. The transmission of this case through postwar compensation files further highlights the postwar administrative continuities: while Detective Weber likely sought to rehabilitate himself by emphasizing his 'helping' role as he spoke openly about his support, the survivors had to rely on statements from their former persecutors to substantiate their claims.

Conclusion

This article has shown that the actions of the criminal police during the Nazi regime were deeply rooted in a long-standing tradition of antigypsyism. This shaped both the legal framework and the ideological motivations of the perpetrators at different institutional levels. By analysing the interplay between historical prejudices, racial biases in police work,

¹¹⁴ 'Interrogation of Erich Karf by notary Hugo Goldberg in Wiesbaden', 3 January 1951, HHStAW, 467/5423, fol. 49; Letter by Detective Weber to Dr. jur. H. Henn in Wiesbaden, 24 May 1946, HHStAW, 467/5423, fol. 58. Interrogation of Erich Karf by notary Hugo Goldberg in Wiesbaden, 3 January 1951, HHStAW, 467/5423, fol. 49.

and the legal framework within which perpetrators operated, this study demonstrates that the lack of cognitive dissonance among the perpetrators was no coincidence. Rather, it was a direct consequence of deeply ingrained antigypsyist attitudes and institutional practices that were seamlessly integrated into the genocidal policies of the Nazi regime.

The distinction between the ideological justification of genocide by the 'architects' and the traditional prejudices that motivated local police underscores the continuity and adaptability of antigypsyism at different levels of perpetration. Whereas the 'architects' who drafted the criminal orders based these on newer 'criminal biological' ideas and justifications, local officers who organized transfers to concentration camps may have perceived these measures in an older tradition push backs, which had been common practice in the German Empire and Weimar Republic.

The cases from decision-making by criminal police officers from Magdeburg or the cooperation between judiciary and Kripo in Berlin when incarcerating individual Sinti or Roma from 1940 to 1943 illustrate a 'pragmatic' application of Nazi repressive policies. Criminal police officers did not rely solely on judicial procedures but employed a flexible array of incarceration strategies, including 'preventive custody' in concentration camps, collaboration with the Gestapo and use of their 'labour education camps', as well as extended confinement in their police prison. These decisions were shaped by situational constraints such as *Lagersperren*. Cases of incarceration in a concentration camps under 'preventive custody' highlight strategic choices to bypass traditional legal processes altogether. The use of stereotypes such as 'fortune-telling', the ascription of fraud, and supposed 'asocial' behaviour to justify detentions underscores the deep entanglement of policing practices with racist and gendered Nazi ideology. These labels could be applied arbitrarily by the criminal police to make incarceration in a concentration camp conform to the defined groups in the orders which were used as a legal framework. Ultimately, local criminal police officers functioned not merely as passive enforcers of centralized directives but as active agents with considerable leeway in interpreting and applying these directives.

Overall, these cases highlight the flexibility of incarceration practices and the wide array of spaces of exclusion that the criminal police, Gestapo, and judiciary could exploit dynamically. The case of Detective Weber from Halle/Saale and the Roma fur trader Josef K. further illustrates how this flexibility could extend into economic and personal spheres: a Kripo officer responsible for 'Gypsy affairs' exploited his ad-

ministrative power through bribery and corruption, selling temporary protection and arranging a Hungarian visa and passport in exchange for large sums of money. This case shows that the persecution of Sinti and Roma was not only ideologically motivated by racism but also an arena of personal enrichment and discretionary power, in which local officers operated at the intersection of racial persecution directives, legal ambiguity, and self-interest. This paper therefore emphasizes the importance of investigating more local case studies, beyond the mass deportations in 1938, 1940, and 1943, to understand the daily practices of repression between 1938 and 1945. These cases reveal how the radicalization of repression was enforced through the close cooperation between Kripo, Gestapo, and judiciary, as well as the *Eigensinn* of local perpetrators, who could also be economically motivated.

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