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## Introduction

This project began as an investigation into the Wehrmacht's role as an agent of social conformity under National Socialism. Assuming that courts-martial would have been the ultimate arbiter of appropriate behavior in the Wehrmacht, I turned my attention to the relevant secondary literature. Although scholars have devoted considerable attention to desertion, insubordination, and other military obstructive acts, the literature is largely silent about nonmilitary offenses, offenses that the civilian penal code threatened with punishment.

Although homosexuality under the swastika has attracted the attention of scholars, no book-length studies have been written on the Wehrmacht's treatment of homosexuals. Franz Seidler devotes forty pages to homosexuality in *Prostitution, Homosexualität, Selbstverstümmelung* (Prostitution, homosexuality, self-inflicted wounds), but he approaches the issue from the problems homosexuality posed for the army medical services rather than the military leadership. In fact, in the pages that Seidler devotes to homosexuality, only ten pages deal directly with the Wehrmacht, with the remainder focusing on other issues such as homosexuality and the ss or Hitler Youth.<sup>1</sup> Beyond this example, one must search the secondary literature diligently for a mere mention of sexuality and the Wehrmacht.<sup>2</sup>

Scholars of sexuality may discuss the Wehrmacht, but more often than not they do so tangentially or by generalized extension from their work on civilian issues. For example, Susan Brownmiller, in her landmark study *Against Our Will: Men, Women, and Rape*, provides an analysis of sexual assault during the Second World War, with nine pages devoted to the Wehrmacht. She contends that Nazism's exaggeration of values that "normal society held to be masculine" and Hitler's perception that the Bolshevik masses were "weak and feminine" naturally made rape an ideal means of repression. "It was not surprising," concludes Brownmiller, "that the ideology of rape burst into perfect flower as Hitler's armies goose-stepped over the face of Europe."<sup>3</sup> She reaches this conclusion, however, apparently on the

basis of generalizations regarding National Socialism rather than on the basis of documentation.

Quoting testimony given before the International Military Tribunal, Brownmiller also concludes that rape had been not only an ideal means of repression but also a “routine” weapon of terror employed by the Wehrmacht.<sup>4</sup> Enumerating various sexual crimes committed by German soldiers during the war, Brownmiller mistakenly equates these specific atrocities with an expressed policy. Despite the Wehrmacht’s complicity in Hitler’s racial war of annihilation against the Soviet Union, sexual assault had not been an expressed component of the annihilation strategy. In fact, the Wehrmacht identified sexual assault as one of the few crimes against Soviet civilians that merited prosecution. Of course, the prosecution and punishment of sexual assaults had been based not on compassion for Soviet civilians but instead on the Wehrmacht’s desire to maintain discipline and prevent the spread of sexually transmitted diseases.

In preparation for the assault on the Soviet Union, the army’s commander-in-chief demanded in June 1941 that military judicial action be taken in all cases where “discipline was threatened and there was a risk of degeneration of the troops, especially in the case of sexual offenses.”<sup>5</sup> This does not mean that German soldiers never committed rape crimes in the east or that the military judicial authorities prosecuted every case that came to their attention. However, drawing conclusions about the Wehrmacht’s strategy on the basis of atrocities reported at Nuremberg and National Socialism’s inherent characteristics has led, at least in this case, to an unsubstantiated generalization. Brownmiller admits that Allied soldiers raped with “gusto,” but this does not prove that the Allies employed rape as part of their expressed military strategy.<sup>6</sup>

Although the Wehrmacht’s role as an agent of social conformity still remains subtly below the surface, this project ultimately became an investigation into the German army’s prosecution and punishment of sex offenders during the Second World War. The text aims to restore balance to the historiography of Wehrmachtjustiz, which has generally focused on military offenses, and to contribute to the historiography of sexuality and the Third Reich. By examining the Wehrmacht’s treatment of sex offenders, the text might also generate

further interest and research into three groups often ignored by scholars, especially military historians: gays, women, and children.

### **Organization**

Part I, “The Military Administration of Justice: Organization, Structures, and Methods,” is based primarily on the secondary literature and published documents yet is nevertheless informed by military judicial records examined at the German Federal Archives Central Documentation Agency (Bundesarchiv-Zentralnachweistelle) in Aachen-Kornelimünster. Chapter 1 outlines the controversy and current debate that surrounds Nazi Germany’s military judiciary. Especially heated and tendentious among German scholars, the military administration of justice under Hitler has become a divisive topic. Anyone hoping to be quickly educated on sexuality and the Wehrmacht will be disappointed, as this aspect of the Wehrmacht’s history has yet to be told. Chapter 2 examines the developments in the military judicial sphere between the Nazi seizure of power and the beginning of the Second World War in 1939. It also delineates the military judicial machinery and the individual components within the military administration of justice under Hitler. Chapter 3 describes the modifications made to the military judicial system after 1939 as the Wehrmacht adapted the military judiciary to meet the demands of total war. To provide a basis for understanding the fates of the individuals who became ensnared in the military judicial machinery (and who are the subject of part II), chapter 4 examines the Wehrmacht’s special penal formations and unique parole system.

Part II, “Sex under the Swastika: The Regime, the Wehrmacht, and the Case Files,” begins with a brief discussion, in chapter 5, of the military judicial case files housed at the Central Documentation Agency. The case files represent the bulk of the primary sources scrutinized for this investigation, and they provide valuable insight into the everyday reality of Wehrmachtjustiz. Each case file contains documents pertaining to a specific military judicial inquiry or court martial, providing a paper trail from the pretrial investigation to conviction and incarceration, and, when applicable, parole. More than four hundred of these files from dozens of different courts were sampled from the Central Documentation Agency’s collection. Unless otherwise noted, any mention of the case files refers to these documents.

Chapter 6 addresses the plight of homosexuals during the Third Reich, and examines the military judiciary's handling of individuals committing homosexual "offenses." Both gay men and heterosexuals committed such infractions. Following the same approach as chapter 6, chapter 7 addresses rape and sexual assault, and chapter 8 investigates child molestation and incest. Chapter 9 provides a tentative analysis of racial defilement (sexual contact between "Aryans" and Jews) and the taboo topic of bestiality. Finally, chapter 10 discusses the role of alcohol in sexual misconduct and the courts' application of the penal codes governing crimes committed by those with diminished mental capacity. Chapter 11 briefly summarizes the inescapable conclusions that should be drawn from this investigation.

Unless otherwise noted, all translations appearing in this book are my own, and I take full responsibility for any errors or omissions.