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Preliminary remarks

The articles contain concise statements on the subjects of the Congress, without being exhaustive.

The facts and views contained in the articles give the views of the authors and are not necessarily those of the United Nations.

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Foreword

The Twelfth United Nations Congress on Crime Prevention and Criminal Justice will address important criminal-policy concerns of our time. This is consistent with its long tradition of promoting a global discourse on how to effectively and sustainably reduce crime. This Congress will enable a valuable exchange of experiences, as well as promoting agreements on common strategies to combat crime.

This brochure addresses specific issues on some Congress topics that meet with particular interest at both the national and international levels, such as juvenile criminal law, the prison system, and crime prevention.

Global challenges posed by new developments in crime may be met effectively only if experts are able to exchange their experiences both nationally and internationally, and if we are successful in creating generally accepted standards based upon scientific findings. I thus very much welcome the fact that the Twelfth Congress has taken up the challenge of developing common strategies to prevent and combat modern forms of crime. I would like to wish every success to the high-level experts from politics and academia who have gathered in Brazil.

Sabine Leutheusser-Schnarrenberger, MP
Federal Minister of Justice
of the Federal Republic of Germany

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Erich Marks
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German Congress on Crime Prevention

Current Experiences with Crime Prevention in the German and European Context

The thrust of numerous international studies and publications,[1] including the UN publications[2] issued thus far on crime prevention, show that on the one hand, there exists worldwide an increasing number of fundamental and principal insights, issues and recommendations with general relevance. On the other hand, there is no alternative to having every State, every society and every region develop and continually foster their own culture of (crime) prevention.[3]

In Europe we can look back on the past 30 years as showing a very positive development of projects, programmes and methods of crime prevention. This development, both qualitative and quantitative, has been observable in a largely parallel manner in the various states and in the European Union overall, as well as in scholarly and non-governmental organisations at the European level. Several central European organisations and institutions that focus on the field of crime prevention should be enumerated here. These include the supranational structures of the Council of Europe,[4] the European Parliament[5] and the European Union[6] with the European Network for Crime Prevention (EUCPN).[7] Noteworthy in the area of academia are the European Institute for Crime Prevention and Control (HEUNI)[8] and the European Society of Criminology (ESC);[9] and among non-governmental organisations, the European Forum for Urban Safety (EFUS)[10] and the Annual International Forum for Crime Prevention (AIF)[11] of the German Congress on Crime

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[1] On this point, cf. with additional citations the first „International Report on Crime Prevention and Community Safety: Trends and Perspectives (2008)“ of the International Centre for the Prevention of Crime (ICPC): http://www.crime-prevention-intl.org/publications/pub_201_1.pdf (2009-10-20); the second report will be published in 2010 at the UN World Congress in Salvador.
[2] http://www.unodc.org/unodc/en/justice-and-prison-reform/tools.html (2009-10-10)
[3] Cf. Kulach/Whiskin/Marks: Cultures of Prevention – Urban Crime Prevention Policies in Europe: towards a common Culture? (2006) http://www.urbansecurity.org/fileadmin/efus/pdf/gb_pub_justy.pdf (2009-10-10)
[4] http://www.coe.int/DefaultEN.asp (2009-10-10)
[5] http://www.europarl.europa.eu/news/public/documents_par_theme/902/default_en.htm (2009-10-10)
[6] http://europa.eu/pol/justice/index_en.htm (2009-10-10)
[7] European Forum for Crime Prevention http://www.eucpn.org (2009-10-10)
[8] http://www.heuni.fi (2009-10-10)
[9] http://esc-eurocrim.org (2009-10-10)
[10] http://www.urbansecurity.org (2009-10-10)
[11] http://www.gcocp.org (2009-10-20)

Prevention. This listing is not meant to be exhaustive; rather, it is designed to make clear the breadth of the existing professional organisations.
The following comments will strive to briefly portray and summarise some central experiences and insights from the point of view of the author:

1. Crime prevention is primarily a community task

Crime prevention has developed as a primary task for communities and cities. It is organised in a very citizen-oriented manner; in larger cities, this increasingly means at the level of city districts. The following principle has taken hold among the leadership of the numerous established community prevention groups in Germany: Crime prevention is a matter for the upper echelons of leadership and is a mayoral obligation. The Zaragoza Manifesto of 2006 contains more detailed references to the continually increasing significance of community-based crime prevention and its current self-concept at the European level.[12]

2. Crime prevention requires an interdisciplinary network

Central services and professional groups in regional and supraregional networks for crime prevention specifically include the police, the justice system, schools, health care system, as well as juvenile and social authorities. The police often assume a special role within the network. In this process, it has been shown that successful crime prevention can be achieved neither alone by the police nor without their active cooperation. Community prevention groups are increasingly receiving financial support through special regional promotional associations, and most recently local citizens' foundations as well.

3. Crime prevention is a responsibility concerning all of society

Crime prevention cannot be the sole responsibility of an interdisciplinary network of state offices. Active involvement by non-governmental organisations, private

[12] "Security, Democracy and Cities", the Zaragoza Manifesto 2006 http://zaragoza2006.fesu.org/index.php (2009-10-20)

aid organisations, associations, religious congregations as well as the industrial sector is required in order to achieve a common responsibility of society.[13]

4. Crime prevention requires citizen commitment

Concrete opportunities to become involved are becoming ever more complex for citizens, their representatives and experts. More than ever, the principle is that we must think globally in order to be able to take effective action locally. The continued development of our civil society also involves making our society safer and more pleasant for the community, because citizen commitment, democratic participation and civic courage hold our society together and serve to prevent crime as well.[14]

5. Crime prevention requires close cooperation with other fields working on prevention

The goal of crime prevention may be attained only in close cooperation with other fields of prevention, such as addiction prevention[15] and traffic safety.[16] But crimeprevention goals may also be a side effect of other fields working in prevention, such as health care.[17] The definition of expert interfaces and mutual acceptance of the various goals and methods, as well as expert processes and standards among the different fields of prevention have proven particularly important in this context.

6. Crime prevention must be a holistic strategy

Experiences from past years and decades show that crime prevention must be understood as a systemic and holistic attitude, goal and strategy. No matter how

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[13] More details, e.g. for the Netherlands, are available from the Netherlands Centre for Crime Prevention and Community Safety www.theccv.eu and in Germany´s Leipzig Declaration of the German Congress on Crime Prevention (*Leipziger Erklärung des Deutschen Präventionstages*) (2008)

[14] Cf. On this point with additional authority the Hanover Declaration (2009) of the German Congress on Crime Prevention (*Hannoveraner Erklärung (2009) des Deutschen Präventionstages*) http://www.praeventionstag.de/nano.cms/de/Dokumentation/Details/XID/868 (2009-10-10) in English, available as of early 2009 at http://www.gcocp.org

[15] More details can be found, e.g., at the German Centre for Addiction Issues (*Deutsche Hauptstelle für Suchtgefahren*) http://www.dhs.de/web/bibliothek/onlinerecherche_detail_schlagw.php?page=49&schlagw=Verkehr and, in the European context, at EMCDDA, European Monitoring Centre for Drugs and Drug Addiction www.emcdda.europa.eu (2007-10-10)

[16] Cf. e.g. a peer project in cooperation with driving schools http://www.bzga.de (2009-10-10)

[17] Cf. with additional authority Federal Centre for Health Education (*Bundeszentrale für gesundheitliche Aufklärung*) http://www.bzga.de (2009-10-10)

positive developments have been in terms of specialisation and quality enhancement in the various professions and disciplines, special significance must be accorded to continual improvements in networking and a more consistent holistic view of individuals, groups and situations.

7. Crime prevention must be a long-term and sustainable form of action

Research results document the outstanding effect of crime-prevention strategies in attaining long-term and sustainable success in reducing crime. Orientation to the principles of sustainability is increasingly being seen and accepted as an immanent and self-explanatory interim goal of all (crime) prevention efforts.

8. Crime prevention is primarily a process-oriented attitude

In the German-speaking countries already, crime prevention is defined in various ways.[18] We must take into account that (crime) prevention is primarily an attitude, and a permanent process of learning and development for individuals, groups and the whole of society. This understanding of prevention also implies that it never is too late nor too early for its application.

9. Crime prevention is a problem- and cause-oriented strategy

Effective crime prevention is cause-oriented. Concrete projects, strategies and methods of crime prevention depend upon the actual problems on site. More details can be found, for example, under the keyword "Problem-oriented policing."[19] The call for stable, evidence-based crime-prevention measures, which is continually increasing, must be followed with determination. Relevant research results worldwide confirm that crime prevention attains the most possible positive effects when it is oriented to strategies and methods whose effectiveness can be empirically assessed and confirmed.[20] Most recently, there has been an increase in the number of evaluated strategies and approaches. Core tasks now include improving acceptance of these strategies and transferring them into practice.

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[18] On this point, cf. e.g. http://de.wikipedia.org/wiki/Kriminalpr%C3%A4vention (2009-10-10)
[19] http://www.popcenter.org (2009-10-10)
[20] Cf. with additional authority: Institute of Criminology of the University of Cambridge http://www.crim.cam.ac.uk (2009-10-10)

10. Crime prevention is an effective approach to almost all criminal offences

In principle, approaches to crime prevention are not bound to certain criminal offences. The focus of crime-prevention activities continues to be on the areas of mass, violent and youth crime; however, other areas such as economic crime or crimes against senior citizens are increasing in significance. And we must also not lose sight of the fact that our current global and core problems, which are all situations calling for prevention – in addition to war and terrorism, these include climate change, world nutrition, energy supply, and globalised financial transactions – have consequences that will substantially influence new developments in crime prevention.

11. Crime prevention is economically successful

Particularly in the English-speaking world, evaluations and meta-evaluations have shown that crime prevention projects – especially when viewed from a middle- and long-term perspective – may repay the funds invested several times over by way of savings in the fields of justice, social welfare and health policy. [21]

12. Crime prevention requires specific prevention management

Meanwhile, we are able to take advantage of numerous proven tools and management recommendations to professionally manage crime prevention projects. Some examples include the crime analyses by Ron Clark and John Eck,[22] the "Guidance on Local Safety Audits,"[23] the 5 Is approach by Paul Ekblom,[24] and the "communities that care" programme.[25]

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[21] More details can be found at the North American institutions Campbell Collaboration http://www.campbellcollaboration.org, Center for the Study of Prevention of Violence http://www.colorado.edu/cspv/blueprints und Jerry Lee Center of Criminology http://www.sas.upenn.edu/jerrylee (2009-10-10)

[22] Clark & Eck: "Become a Problem-Solving Crime-Analyst in 55 small Steps" http://www.popcenter.org (2009-10-10)

[23] Guidance on Local Safety Audits: A Compendium of International Practice, published by the European Forum for Urban Safety (EFUS), Paris 2007, ISBN 2-913181-30-9, http://www.efus.org (2009-10-10)

[24] On this point, cf. http://www.designagainstcrime.com or http://ww.beccaria.de (2009-10-10)

[25] On this point, cf. for the USA http://ncadi.samhsa.gov/features/ctc/resources.aspx, for the Netherlands http://www.ctcholland.nl and for the adaptation currently underway in Lower Saxony, Germany http://www.lpr.niedersachsen.de (2009-10-10)

13. Crime prevention develops its own standards

Development, application and continued promotion of standards for quality management in crime prevention are increasing in significance. One concrete example of this are the Beccaria Standards.[26] These standards offer guidelines to developers, actors and others responsible for crime prevention for ensuring the quality of their crime prevention activities. They are designed to ensure that planning, implementation and evaluation of crime prevention projects are oriented to quality criteria, i.e. projects are conceived in a way that makes them generally subject to evaluation. As such, the standards include benchmarks and demands in terms of the quality of planning, implementation and evaluation of crime prevention programmes and projects.

14. Crime prevention requires evaluation

An ever increasing number of projects and programmes in crime prevention is evaluated, and this contributes significantly to an improved and more effective crime prevention. This is associated with an improved exchange between the often strictly separated fields of policymaking, practice and academia regarding the goals and effects of crime-prevention measures; and it benefits all participants[27]. One important condition for increased evaluation of activities in crime prevention is a solid advance description of problems and data to be collected.

15. Crime prevention requires exchange and benchmarking

Projects, programmes and specific crime-prevention measures should not only be evaluated more systematically; rather, benchmarking processes should be compared and improved at both the national and international levels. In addition to “good practice” and “best practices” processes, relevant interdisciplinary congresses[28] as well as awards and prizes[29] also have a quality-enhancing effect.

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[26] http://www.beccaria.de/nano.cms/de/Beccaria_Standards/Page/1 (2009-10-10)
[27] More details may be found, e.g., at the site of the CRIMPREV European initiative (Assessing Deviance, Crime and Prevention in Europe) http://www.gern-cnrs.com as well as at http://wwwcrimereduction.org (2009-10-20)
[28] For example the annual German Congress on Crime Prevention http://www.gcocp.org or the annual Colloquium of the ICPC http://www.crime-prevention-intl.org/menu_item.php?code=annual_colloquium (2009-10-10)

16. Crime prevention is applied subsidiarity

Today, crime prevention is undertaken at a total of five levels: local, regional, national, continental, and global (international as well as supranational). It has become clear that defined division of labour and coordination between all organisations and institutions working at the various levels are particularly important for successful crime prevention. Actors at the various levels have different tasks which, to the extent possible, should be structured based upon an underlying fundamental understanding and therefore result in an effective overall concept.[30]

17. Crime prevention is developing into a qualified professional specialty

The necessity of additional specialisation in the areas of planning and management, as well as new challenges in the area of knowledge management, have resulted in initial plans for specific training courses in crime prevention. In the past several years, specialised advanced training programmes have been developed in several European countries for full- and part-time employees in various fields of crime prevention. [31]

18. Crime prevention is oriented toward enlightened crime policies

The statement by Cesare Beccaria (1738-1794) still holds true: “It is better to prevent crime rather than to punish it.” Crime prevention is most successful where it is a integral part of a rational and enlightened policy and criminal policy and is built upon human rights and a democratic state following the rule of law.[32]

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[29] Examples include the Stockholm Prize in Criminology www.criminologyprize.com, the European Crime Prevention Award (ECPA) www.eucpn.org and the German Prize for Crime Prevention (*Deutsche Förderpreis für Kriminalprävention*): http://www.stiftung-kriminalpraevention.de/index_home.html (2009-10-10)

[30] Information regarding the definition of the subsidiarity principle can be found, e.g., at Wikipedia: http://en.wikipedia.org/wiki/Subsidiarity (2009-10-10)

[31] Cf. on this point the article by Meyer/Coester/Hasenpusch/Marks in this publication as well as at www.beccaria.de (2009-10-10)

[32] Regarding the principles of enlightened crime policy, cf. Lawrence Sherman: Enlightened Justice: Consequentialism and Empirism from Beccaria to Braithwaite, in: Marks,Erich & Meyer, Anja & Linssen,Ruth (Eds.): Quality in Crime Prevention, Hanover 2005, ISBN 3-8334-4194-1, http://www.beccaria.de/Kriminalpraevention/en/Documents/beccaria_quality%20in%20crime%20prevention.pdf (2009-10-10)

19. Crime prevention has an important connection to restorative justice

The approaches of mediation, conflict management and offender-victim mediation have developed very positively in the past several years. The restorative justice approach[33] meanwhile makes an important contribution to the continued development of modern societal cultures of conflict. The concepts of victimology,[34] restorative justice and crime prevention are complementary approaches and concepts.

20. Crime prevention needs cross-border cooperation

The European Union has been carrying out specific funding programmes on crime prevention for more than ten years (e.g. within the scope of the GROTIUS, AGIS and ISEC programmes, among others)[35]; and this has shown the necessity – and above all the opportunities and advantages – of supranational cooperation within the Third Pillar of the EU.[36] Of equal significance are the various proposals adopted by the Council of Europe[37] in the past decades.

21. Crime prevention also works through adaptation

Like in all other areas, the wheel does not constantly need to be reinvented in crime prevention. Examples of the adaptation of successful programmes and projects from other countries are the Nurse Family Partnership Programme (NFP)[38] by David Olds and its adaptation by the Pro Kind Foundation in Germany,[39] as well as the programme Communities that Care (CTC) in the Netherlands and Germany (Lower Saxony).[40]

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[33] www.restorativejustice.org (2009-10-20)
[34] On this point, cf. World Society of Victimology http://www.worldsocietyofvictimology.org (2009-10-10)
[35] http://ec.europa.eu/justice_home/funding (2009-10-10)
[36] Pursuant to the Lisbon Treaty of 2007 (http://en.wikipedia.org/wiki/Treaty_of_Lisbon, 2009-10-10), the former "police and judicial cooperation in criminal matters" of the current "3rd pillar" is now termed the "area of freedom, security and justice" as a portion of the "internal policies and measures of the European Union."
[37] www.coe.int (2009-10-10)
[38] www.coe.int (2009-10-10)
[39] Lower Saxony Criminology Research Institute (*Kriminologisches Forschungsinstitut Niedersachsen*) http://www.kfn.de and the Pro Kind Foundation http://www.stiftung-pro-kind.de (2009-10-10)
[40] Narcis http://www.narcis.info and the Lower Saxony *Land* Prevention Council http://www.lpr.niedersachsen.de (2009-10-10)

22. Crime prevention is not a punishment

As the term implies, crime prevention is an attitude of anticipation and strives to preclude the criminal offence; as such, it should not be equated or confused with a reaction to or punishment for crime. Stated differently, crime prevention is neither a substitute nor an alternative to sanctions imposed after crimes have been committed. Nonetheless, the principle applies that in cases of doubt, less intrusive sanctions exhibit a better tertiary preventive effect.

23. Crime prevention serves to increase reporting of crime

Using the example of the new manner of dealing with the problem of domestic violence in most European countries, we can see that measures at the interface between intervention and prevention are also suitable to allow more criminal offences to be reported and included in criminal statistics, thus reducing the number of unreported crimes. [41] Extensive scientific research confirms these findings.[42]

24. Crime prevention is strongly influenced by the Internet

The rapid and irrevocable expansion of the Internet has manifold effects on crime prevention. The spectrum ranges from improved approaches to information, counselling and communication in the area of crime prevention, to addressing new offences and forms of criminality, to the problems resulting from new forms of addiction.

25. Crime prevention is an effective form of victim protection

Within the past two decades, we have gained the insight that victim protection and assistance on the one hand, and crime prevention on the other, are not opposites; rather, they supplement and imply one another. One significant example of this development and attitude is the mission statement and institutional self-

[41] More information is available at http://www.coe.int/t/pace/campaign/stopviolence/default_EN.asp (2009-10-10)
[42] For example the student surveys taken by the Lower Saxony Criminology Research Institute at http://kfn.de/home/Forschungsbericht_107.htm (2009-10-10) with additional authority

understanding of the largest German victim assistance organisation, WEISSER RING,[43] at the European level Victim Support Europe,[44] and at the international level the World Society of Victimology.[45]

26. Crime prevention has limits

Going forward, crime prevention will require a more precise, concrete formulation of personal and societal purposes, goals and visions. In this, we must not lose sight of the tension between freedom and prevention. Prevention must not be confused with an attitude of risk elimination in principle. The basic ethical principle of double effect must thus always be taken into account in the field of crime prevention.

To conclude, reference should be made to the continued development of deliberations for concrete strategies and cooperative projects for an increasingly global and to be further globalised crime prevention. Crime prevention strategies and concrete projects exist throughout the world and are, dependent upon their respective local societal, state and economic realities, extremely diverse in terms of their problems, goals and resources. Nonetheless, in the World Wide Web, these diverse approaches are only a few mouse clicks away from one another. More than ever, the principle is that we must think and communicate globally in order to be able to act effectively locally. Another important principle is that we must learn and gain experience in the field of crime prevention; that we must better share and consolidate efforts to work on the problems that exist worldwide; and that we must refine existing strategies to improve and resolve problems.

[43] http://www.weisser-ring.de/internet/index.html (2009-10-10)
[44] http://www.victimsupporteurope.eu (2009-10-10)
[45] http://www.worldsocietyofvictimology.org (2009-10-10)

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International human rights standards in regard to youth crime law – sources, content, relevance*

1. Introduction: The level of awareness of standards has increased!

Seven years ago the Federal Ministry of Justice (BMJ) and the German Association of Juvenile Courts and Juvenile Court Assistance helped fund the publication of a book entitled *Internationale Menschenrechtsstandards zum Jugendkriminalrecht (*International Human Rights Standards in Regard to Youth Crime Law). The intention was thereby to draw attention to United Nations and Council of Europe documents that were difficult to access and in the majority of cases were not available in German, but of which an awareness appeared indispensable for the debate in Germany.[1] In the meantime, the level of awareness of these standards has considerably increased. There have been law dissertations written about them[2] and in 2004 another compilation was published with a similar objective that devoted itself to the relevant recommendations of the Council of Europe on deprivation of liberty.[3]

The breakthrough came in 2006 when the Federal Constitutional Court issued its judgment on the unconstitutionality of the juvenile justice system. The Federal Constitutional Court found as follows: "There can be indications that available findings have not been taken into consideration sufficiently as required under the

* Dedicated to Horst Schüler-Springorum, Munich, on the occasion of his 80th birthday, 15 Oct. 2008.

[1] Höynck/Neubacher/Schüler-Springorum, *Internationale Menschenrechtsstandards und das Jugendkriminalrecht. Dokumente der Vereinten Nationen und des Europarates* [International Human Rights Standards and Youth Crime Law. Documents of the United Nations and the Council of Europe], published by the Federal Ministry of Justice in cooperation with the German Association of Juvenile Courts and Juvenile Court Assistance, Berlin 2001.

[2] Kiessl, *Die Regelwerke der Vereinten Nationen zum Jugendstrafrecht in Theorie und Praxis. Eine empirische Untersuchung über ihre Anwendung hinsichtlich der freiheitsentziehenden Maßnahmen bei delinquenten Kindern und Jugendlichen in Südafrika* [The Bodies of Regulations of the United Nations on Youth Crime Law in Theory and Practice. An Empirical Study of their Application in Regard to Deprivation of Liberty Measures for Delinquent Children and Youth in South Africa], 2001; Morgenstern, *Internationale Mindeststandards für ambulante Strafen und Maßnahmen* [International Minimum Standards for Community Sanctions and Measures], 2002.

[3] *Freiheitsentzug. Die Empfehlungen des Europarates 1962-2003, mit einer wissenschaftlichen Einleitung und einem Sachverzeichnis von Hans-Jürgen Kerner und Frank Czerner* [Deprivation of Liberty. The Recommendations of the Council of Europe 1962-2003, with a scientific introduction and subject index by Hans-Jürgen Kerner and Frank Czerner], published by Germany, Austria and Switzerland, 2004.

Basic Law or that prisoners' concerns are not being given sufficient weight as required under the Basic Law when requirements under international law or international standards referring to human rights, as set out in the relevant directives and recommendations adopted by the United Nations or organs of the Council of Europe (...), have not been observed or they fall short of them."[4] The importance of this passage in regard to crime policy can hardly be overestimated, since the debate on youth crime law thereby gains an international perspective, and it requires of the legislature that it at least look into these standards in depth. In the scientific debate that accompanied the new draft laws of the Länder (states) on juvenile justice in the following period, the international standards were then often taken as the yardstick.[5]

The sources of these recommendations, fundamental principles and guidelines have by no means dried up. The Council of Europe in particular has over the past few years adopted further fundamental recommendations. These include the recommendations of the Committee of Ministers Rec(2003)20 concerning *new ways of dealing with juvenile delinquency and the role of juvenile justice* of 24 September 2003 and Rec(2006)2 *on the European Prison Rules* of 11 January 2006. On 5 November 2008, Rec(2008)11 the *European Rules for Juvenile Offenders Subject to Sanctions or Measures* were then adopted. These special principles applicable to young offenders and those subject to criminal law sanctions were intended to supplement general principles on the execution of sentences.[6]

But what are international standards? And what can be said about their content and their significance? In the following I will outline the key stages in the development of these standards and answer the question as to their legally binding force. Especial weight will be given to the significance of standards at international and national level. I will not only show that German youth crime law is in keeping with the spirit of international standards, but also that these requirements are scientifically well-founded and correct. Finally, I will demonstrate, based on a few examples, where improvements need to be made in regard to German law.

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[4] Federal Constitutional Court *NJW* 2006, 2093.
[5] See, e.g., Goerdeler/Pollähne, *Das Bundesverfassungsgericht als Wegweiser für die Landesgesetzgeber* [The Federal Constitutional Court as the Guide for the Land Legislatures], in: *ZJJ* 2006, p. 250 et seq.
[6] See Dünkel/Baechtold/van Zyl Smit in: Federal Ministry of Justice (ed.), *Das Jugendkriminalrecht vor neuen Herausforderungen? Jenaer Symposium* [Youth Crime Law Facing New Challenges? Jena Symposium], 2009, p. 297 et seq.

2. United Nations and Council of Europe standards 1955 – 2008

a) Objective: The protection of human rights and fundamental freedoms

In order to gain an understanding of international standards it is first essential to be clear about their beginnings. After World War II, both the United Nations and the Council of Europe were committed to the principle of international cooperation and to the protection and observance of human rights and fundamental freedoms. This clearly emerges from their statutes[7] and the preambles of the relevant resolutions and recommendations, which explicitly take up the international human rights instruments. By way of example I would like to quote from the Preamble to the Recommendation of the Council of Europe concerning new ways of dealing with juvenile delinquency and the role of juvenile justice of 2003: "The Committee of Ministers, under the terms of Article 15.*b* of the Statute of the Council of Europe, (...) taking into consideration the European Convention on Human Rights, the European Convention on the Exercise of Children's Rights, the United Nations Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, Recommends that governments of member states: (...)."[8] The *United Nations Convention on the Rights of the Child* is no doubt the most significant in regard to youth crime law.[9] A child is defined as every human being below the age of 18 years (Article 1), that is including youth, which means that the special requirements the Convention makes of all those institutions, services and facilities responsible for the care or the protection of children (in the areas of security, health, staff and supervision, see Article 3.3) also concern juvenile and family courts, juvenile assistance facilities, and juvenile prisons and juvenile detention facilities in Germany. Criminal law and the prison system are addressed in Articles 37 and 40: Whilst Article 37 reiterates the prohibition of torture

[7] See Article 1 no. 3 of the Charter of the United Nations of 26 June 1945; Article 1 (b) of the Statutes of the Council of Europe of 5 May 1949.
[8] Unauthorised translation by the BMJ, see *Kerner/Czerner*: *Freiheitsentzug Die Empfehlungen des Europarates 1962-2003* [Deprivation of Liberty. The Recommendations of the Council of Europe 1962-2003], 2004, p. 211 et seq. or the homepage of the DVJJ: www.dvjj.de/data/pdf.
[9] Federal Law Gazette 1992 II p. 122, see Dorsch*, Die Konvention der Vereinten Nationen über die Rechte des Kindes* [The United Nations Convention on the Rights of the Child], 1994.

and cruel, inhuman and degrading treatment[10] and rules out the death penalty[11] and life prison sentences, provides protection against arbitrary arrest[12] and re-affirms the principles of separate accommodation from adults[13], imprisonment as the measure of last resort and the right to legal assistance[14] for children, Article 40 contains guarantees applicable to the law of criminal procedure, such as the presumption of innocence until proven guilty according to law.[15]

The section of the Preamble cited in the above makes it clear that even the legally non-binding minimum principles, rules, regulations – in short: standards – are assigned the task of giving concrete shape to and further fleshing out legally binding international law requirements set out in human rights conventions. In addition, it shows the interplay between international and European standards, since it is the Council of Europe that makes reference to the principles of the United Nations in its recommendation. The standards are therefore doubly interwoven in an international network: First vertically, in that they correlate with international law treaties, and then horizontally, in that they are formulated by different international organisations that make reference to one another.

b) Actors: The United Nations and the Council of Europe

The UN was the pioneer. As early as 1955 it drew on the instrument of standards to spell out worldwide its ideas regarding the treatment of prisoners in a manner that was non-binding under international law.[16] The Council of Europe adopted these, with very few changes, in 1973 as the *European Prison Rules*.[17] The Council of Europe's youth crime law was also oriented to the UN's standards. In the mid-1980s the focus of attention had turned to the protection of juvenile offenders. In 1985 the *UN Standard Minimum Rules for the Administration of Juvenile Justice* (known as the

[10] See also Article 7 of the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment of 10 December 1984 (Federal Law Gazette 1990 II p. 246) and Article 3 of the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR), as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987 (Federal Law Gazette 1989 II p. 946).
[11] Already inadmissible for juveniles pursuant to Article 6 (5) of the ICCPR; also generally inadmissible pursuant to Article 1 of the Additional Protocol No. 6 to the ECHR on the abolition of the death penalty of 28 April 1983 (Federal Law Gazette 1988 II p. 663).
[12] See also Article 9 of the ICCPR and Article 5 of the ECHR.
[13] See Article 10 para. 2 b) and Article 10 para 3 second sentence of the ICCPR.
[14] See Article 14 para. 3 d) of the ICCPR; Article 6 para. 3 c) of the ECHR.
[15] Article 14 para. 2 of the ICCPR; Article 6 para. 2 of the ECHR.
[16] Standard Minimum Rules for the Treatment of Offenders.
[17] Rec(73)5. This Recommendation was revised in 1987 and replaced by the new European Prison Rules in 2006.

Beijing Rules) enhanced the position of juveniles in comparison to adults, for example by giving priority to measures of diversion.[18] Five years later the *UN Rules for the Protection of Juveniles Deprived of their Liberty* contained detailed provisions governing juvenile detention facilities, for example in regard to accommodation, training and work, healthcare, external contacts, complaints and staffing. The introductory part containing fundamental principles again emphasised that the imprisonment of juveniles could only be a measure of last resort and even then should be kept to a minimum.[19]

Although the UN set the example when it came to calling for rational youth crime policies, when its activities in regard to standards then waned after 1990, it handed over its role as leader to the Council of Europe.[20] The latter's recommendations were formulated more recently, were thus more attuned to recent developments, more concrete and more resolute. On the basis of the recommendations of the Council of Europe I will outline what makes a modern youth crime law as delineated by the UN's and the Council of Europe's standards.

c) Content: Guidelines for a modern youth crime law

In view of the heated debate on crime policy and the increasing willingness to impose repressive sanctions and measures in some member states[21], the Council of Europe in 2001 subjected its own recommendations to a review. After taking advice from international experts, however, it is now holding to its course of measured reactions and the avoidance of imprisonment wherever possible. Recommendation *(2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice* was the outcome of these deliberations. Its especial significance is based on the fact that it was borne out of a conscious decision on what course to take. The Preamble emphasises that it was based on the insight that the conventional system

[18] See Schüler-Springorum, *Die Mindestgrundsätze der Vereinten Nationen für die Jugendgerichtsbarkeit* [The United Nations Minimum Standards for the Administration of Juvenile Justice] , in: *ZStW* 99 (1987), p. 809 et seq.
[19] See Dünkel, *Zur Entwicklung von Mindestgrundsätzen der Vereinten Nationen zum Schutze inhaftierter Jugendlicher* [On the Development of the United Nations Minimum Standards for the Protection of Juvenile Offenders], in: *ZStW* 100 (1988), p. 361 et seq.
[20] However, ECOSOC Resolution 1997/30 created the Interagency Panel on Juvenile Justice (IPJJ), which includes the Committee on the Rights of the Child, UNICEF and the UN Human Rights Commissioner. Its tasks include the coordination of technical advice and assistance and the dissemination of information, also on international standards.
[21] See Herz in: Albrecht/Kilchling (ed.), *Jugendstrafrecht in Europa* [Youth Crime Law in Europe], 2002, p. 81 et seq.

of the administration of justice as such could not offer any suitable solutions in regard to the treatment of young offenders, whose educational and social needs differed from those of adults. The principle aims of juvenile justice should be to prevent offending and re-offending, to (re)socialise and (re)integrate offenders and to address the needs and interests of victims (no. 1). Interventions with juvenile offenders should, as much as possible, be based on scientific evidence (no. 5), and expansion of the range of suitable alternatives to formal prosecution should continue (no. 7). It should be stressed that this call to expand innovative community sanctions explicitly also refers to serious, violent and persistent juvenile offenders (no. 8). The Council of Europe makes it clear that it would also not like to see this problematical group excluded from alternatives to imprisonment. No. 11 of the recommendations also contrasts with calls that are heard in Germany: it states that it should be possible for young adults under the age of 21 to be treated in a similar manner to juveniles and to be subject to the same interventions when the judge is of the view that they are not as mature and responsible for their actions as full adults. Here the Council of Europe is clearly defending the content of a regulation that has met with hostility in Germany – section 105 of the Juvenile Courts Act![22] No. 17 also in no uncertain terms criticises so-called apocryphal grounds and the "short sharp shock": "Where possible, alternatives to remand in custody should be used for juvenile suspects, such as placements with relatives, foster families or other forms of supported accommodation. Custodial remand should never be used as a punishment or form of intimidation or as a substitute for child protection or mental health measures."

And so the Council of Europe comes out against calls to tighten youth crime law. By finally calling for "strategies on juvenile delinquency" to increase public confidence, "using a wide range of outlets, including television and the Internet" (no. 25) it shows that it has a realistic idea of the conditions under which a modern crime policy will function properly.

Even given the debates of the past few years, a brief summary of the crime police guidelines of the Council of Europe and the UN in regard to youth crime law would

[22] See also no. 3.3 of the UN Minimum Standards for Juvenile Justice of 1985. Article 2.2-3 of the UN Model Law on Juvenile Justice at least proposes a special rule for young adults, see Höynck/Neubacher/Schüler-Springorum, *Internationale Menschenrechtsstandards und das Jugendkriminalrecht* [International Human Rights Standards and Youth Crime Law], 2001, p. 112, even if it is only meant in the sense of an obligatory reason for mitigating a sentence.

have to read as follows: Wherever possible, diversion, community interventions and the avoidance of imprisonment are to take priority over imprisonment, which can only be regarded as the measure of last resort. Where absolutely necessary, juveniles are to be accommodated separately from adults; the execution of punishment must be oriented to the basic principles of treatment and reintegration, and humane, non-degrading treatment is to be guaranteed.

d) Holding its course: The European Rules for Juvenile Offenders Subject to Sanctions or Measures

The *European Rules for Juvenile Offenders Subject to Sanctions or Measures* indicate that the Council of Europe is holding its previous course. This highly topical Recommendation (2008)11, which was adopted as recently as November 2008, closes a loophole, firstly because it refers specifically to juveniles (which is not the case with the *European Prison Rules* and the *European Rules on Community Sanctions and Measures* of 1992[23]) and secondly because it complements the *Recommendation concerning new ways of dealing with juvenile delinquency and the role of juvenile justice* that had omitted deprivation of liberty for juveniles. In this sense the new recommendations, which have their sights on all forms of deprivation of liberty, have the same function as the *UN Rules for the Protection of Juveniles Deprived of their Liberty* at UN level.[24]

The basic principles to be applied to the imposition and implementation of sanctions and measures are social reintegration, education and the prevention of re-offending (no. 2), that is special prevention measures. They are thus in line with previous standards and also with Germany's youth crime law (see section 2(1) of the Juvenile Courts Act, new version). Deprivation of liberty is to be the measure of last resort and imposed and implemented for the shortest period possible; pre-trial detention is to be avoided (no. 10), so-called apocryphal grounds are not permitted. Mediation and restorative measures are to be encouraged at all stages of dealing with juveniles (no.

[23] Nevertheless, these remain applicable when it is in the best interests of the young person (Preamble), see Council of Europe/European Committee on Crime Problems (CDPC), Draft Recommendation on the European Rules for Juvenile Offenders Subject to Sanctions or Measures, Doc. CDPC (2008) 17 – Addendum I (www.coe.int/t/e/legal_affairs/legal_co%2Doperation/steering_committees/cdpc/Documents, 21 Aug. 2008).

[24] Dünkel/Baechtold/van Zyl Smit, *Europäische Mindeststandards und Empfehlungen als Orientierungspunkte für die Gesetzgebung und Praxis* [European Minimum Standards and Recommendations as Points of Reference for the Legislature and in Practice], in: Goerdeler/Walkenhorst (ed.), *Jugendstrafvollzug in Deutschland* [Juvenile Justice in Germany], 2007, p. 118.

12). The same applies to a wide range of community sanctions and measures, where priority is to be given to those that may have an educational impact (no. 23.1 and 23.2). What is especially remarkable is that young adult offenders may "where appropriate, be regarded as juveniles and dealt with accordingly" (no. 17). One requirement of the 2003 recommendation is thus reaffirmed. It would go beyond the scope of this article to cite in detail the rules on the implementation of deprivation of liberty. Nevertheless, two requirements deserve particular mention from a German perspective as well. Firstly, juveniles are to be "encouraged" to take part in activities and interventions (no. 50.2). This choice of words rules out any confusion with the disputed duty to cooperate incorporated into some Land legislation on juvenile justice in Germany and is thus without a doubt programmatic in nature. Secondly, the principle of accommodation in individual bedrooms over night, which was already included in the 2006 European Prison Rules, has also been included in these recommendations (no. 63.2). Finally, the recommendations take up important and well-known concerns of the European Council in calling for sanctions and measures designed for juveniles to be developed on the basis of research and scientific evaluation (no. 135). The media and the public are to be informed about the purpose of these sanctions and measures, as well as of the work of the staff implementing them (no. 139.2).

The Council of Europe is thus sending an impressive signal! It is hard to overlook the fact that its recent recommendations do indeed "strictly follow the human rights tradition of previous bodies of regulations adopted by the Council of Europe and the United Nations", as Frieder Dünkel, a member of the group of experts, put it.[25]

3. The legally binding nature of standards

Recommendations of the Council of Europe, like the fundamental principles, rules and guidelines of the UN, are by definition not binding law. As mere standards, are they thus non-binding? The answer to that is: No. Despite the legal policy effect, namely the need for justification that kicks in when standards are not met, standards

[25] Dünkel/Baechtold/van Zyl Smit*, Europäische Mindeststandards und Empfehlungen als Orientierungspunkte für die Gesetzgebung und Praxis* [European Minimum Standards and Recommendations as a Point of Reference for the Legislature and in Practice], in: Goerdeler/Walkenhorst (ed.), *Jugendstrafvollzug in Deutschland* [Juvenile Justice in Germany, 2007, p. 137.

also develop legal effects when they become part of the obligatory nature of "hard" law, to which they give concrete shape.

Reference should here above all be made to the *European Convention on the Protection of Human Rights and Fundamental Freedoms* of 1950 and to the *International Covenant on Civil and Political Rights* of 1966. These are international law treaties the bodies responsible for the enactment of federal law in Germany have endorsed (Article 59 para. 2 of the Basic Law) and thereby given at least equal rank to federal law. The same applies to the *UN Convention on the Rights of the Child* of 1989, to the *UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment* of 1984, and to the *European Convention for the Protection against Torture and Inhuman or Degrading Treatment or Punishment* of 1987. The latter provided the basis for the establishment of an instrument that points the way ahead, namely the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. This Committee is authorised at any time to visit the institutions responsible for implementing the deprivation of liberty and to review them in regard to their compatibility with the requirements under the Convention. Reports are compiled and published following these visits. The European Court of Human Rights has already made reference in its decisions to prison conditions in individual facilities described in these reports and has even appropriated the legal assessments the Committee reached based on its own standards.[26] The Committee's role model function is so great that the UN wants to follow its example: An optional protocol to the UN's anti-torture convention provides for a comparable prevention mechanism with visiting rights at international and national level.

And that is the crux of the matter: It is through such appeal procedures set out in international law treaties that international standards are increasingly having their effect. The European Court of Human Rights refers to them in its interpretation of Article 3 of the European Convention on Human Rights and Fundamental Freedoms, as does the UN Committee on the Rights of the Child in regard to reviews under the

[26] See the judgments in the cases of *Dougoz vs. Greece* 2001, *Mouisel vs. France* 2002 and *Kalashnikov vs. Russia* 2002, cf. Murdoch, The Treatment of Prisoners. European Standards, 2006, p. 46 et seq., 50.

convention of the same name.[27] Above all, however, it is the European Committee for the Prevention of Torture whose tasks are in particular focused on the European Prison Rules, because they give concrete shape to human rights requirements and permit their review. Regardless of that, national courts must draw on this "soft law" when interpreting prison law. The literature and case-law in Germany are in agreement on that.[28] For example, in February 2008 the Berlin Court of Appeal made reference both to the European Prison Rules and to comments made by the European Committee for the Prevention of Torture in regard to the question of what the minimum size of a cell with a separate shower cubicle must be.[29]

And so we can see that even without a directly binding legal effect the international standards are by no means non-binding. They develop their direct effect at political/moral level and via legal norms in national and international law. Two Swiss commentators of the Prison Rules managed to come up with a way of describing their effect that was as easy to remember as it was apt. According to them, the legal effect can be explained by means of the "mutual influencing of a politically binding catalogue and its application in practice to give concrete shape to binding human rights. They are, therefore, today generally classified as an expression of a pan-European legal understanding and thus as a frame of reference and yardstick for the execution of prison sentences in line with human rights. In that sense they represent an aid to interpreting the application of human rights in the specific environment of prisons."[30]

4. The international significance of standards

a) Youth crime law systems are developing in opposite directions

One means of doing justice to international standards is, naturally, to incorporate them into national law. The Lithuanian legislature took this path in 2003 when it

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[27] See the Recommendation on the Administration of Juvenile Justice (Doc. CRC/C/90, 22nd Session, September 1999) and the Committee on the Rights of the Child, General Comment No. 10 (2007): Children's rights in juvenile justice (Doc. CRC/C/GC/10 of 25 April 2007).

[28] See Walter, *Strafvollzug* [The Prison System], 2nd ed. 1999, § 356; Stenger, *Gegebener und gebotener Einfluß der Europäischen Menschenrechtskonvention in der Rechtsprechung der bundesdeutschen Strafgerichte* [Actual and Required Influence of the European Human Rights Convention in the Case-law of German Criminal Courts], 1991.

[29] Berlin Court of Appeal, order of 29 Feb. 2008, 2 Ws 529/08 (juris), § 25 with further references; accordingly the surface area of an individual cell must be at least 6 m^2, in the case of multiple occupancy 4 m^2 per inmate.

[30] Künzli/Achermann, *Mindestgrundsätze schützen Menschenrechte* [Minimum Standards Protect Human Rights], in: Federal Office of Justice, *Informationen zum Straf- und Maßregelvollzug* [Information on The Enforcement of Prison Sentences and Measures], info bulletin 2/2007, p. 5-7.

simply adopted parts of the European Prison Rules word for word.[31] But that is the exception rather than the rule. An international comparison of youth crime law systems shows that it is hard to ignore the inconsistent, even contrary trends.[32] It is astonishing that Central and Eastern European countries, which had difficulties contending with rising crime rates in the 1990s after the collapse of socialism, have not followed the lead, for example, of the United States by tightening conditions. The age limit of (relative) criminal responsibility is often higher than in the "old EU"; in the Czech Republic, Poland and Slovakia, for example, it is 15 years.[33] Some have followed the Council of Europe and its calls for extended community sanctions and measures. In the Czech Republic measures of diversion were introduced in the mid-1990s and extended by means of an independent juvenile courts act that entered into force in 2004. Poland has largely retained regulations passed in 1982. These are based on the concept of education and comparatively seldomly lead to imprisonment or detention.[34] A separate juvenile courts act entered into force in Serbia in 2006. It is oriented strongly to the German law on youth crime.

It is disconcerting to see that some of the former socialist states – formerly the "problem children" that were required to ratify the European Human Rights Convention when they joined the Council of Europe – are now more committed to European standards than some countries in "old Europe". Germany's youth crime law is at any rate better than its reputation at home, and some of those involved in German crime policy could learn to incorporate scientific knowledge more. It would be paradoxical if now of all times, after numerous European countries have followed Germany's example and introduced alternative sanctions in separate juvenile law regulations, for example in the form of victim-offender mediation[35], for the German legislature to demolish the Juvenile Courts Act, large parts of which are exemplary. As regards the debate in Germany there can hardly be any compromises when it comes to "warning shot detention", increasing the range of punishment, reducing the

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[31] Dünkel/Baechtold/van Zyl Smit, in: Goerdeler/Walkenhorst (ed.), *Jugendstrafvollzug in Deutschland* [Juvenile Justice in Germany], 2007, p. 115, with reference to Sakalauskas, *Strafvollzug in Litauen* [The Prison System in Lithuania], 2006.

[32] See Junger-Tas/Decker (eds.), International Handbook of Juvenile Justice, 2006; Albrecht, *Jugendfreiheitsstrafe und Jugendstrafvollzug im europäischen Ausland* [Deprivation of Liberty of Juveniles and Juvenile Justice in Europe] in: *RdJB* 2007, p. 204 et seq.

[33] Kilchling, *Zukunftsperspektiven für das Jugendstrafrecht in der erweiterten Europäischen Union* [Future Prospects for Youth Crime Law in the Enlarged European Union], in: *RdJB* 2003, p. 323 et seq., 325-326.

[34] See the contributions by Válková and Stando-Kawecka, in: Junger-Tas/Decker (eds.), International Handbook of Juvenile Justice, 2006, p. 351 et seq. and 377 et seq.

[35] See Mestitz/Ghetti (ed.): Victim-Offender Mediation with Youth Offenders in Europe. An Overview and Comparison of 15 Countries, 2005.

application of youth crime law for young adults, among other things. These are not only nuances but fundamental issues. The legislative amendments being called for are basically heading in the wrong direction and are a mistake.

b) Criminological findings in regard to youth crime law

There is hope for the youth crime law applicable in Germany today. On the one hand, the increase in the level of awareness and significance of international standards has exceeded expectations. In view of the ever more influential role of the European Court of Human Rights, it is not likely to lose any momentum. On the other hand, it clearly has the better arguments. Europe-wide studies[36] have for many years provided evidence that juvenile delinquency is largely normal and development-related misconduct that by no means heralds the start of a criminal career, but which stops of its own account with increasing age after peaking at age 16-17 (a phenomenon known as spontaneous probation). This principle of the episodic nature of delinquency only does not apply to a small percentage in each age group. These approximately 5%, for whom the term "multiple offender" has been coined in the crime policy debate, are held responsible for more than half of all offences committed by their age group. The hope held by those working in the field of crime policy, namely that crime can be considerably reduced by putting these problem youths into prison, is, however, unfounded. There are neither uniform criteria available for labelling them "multiple offenders" nor reliable diagnoses that permit these persons to be identified prospectively.[37] In particular, however, various findings from recent research indicate that the end of a multiple offender's criminal career is not the exception but the rule and that processes involved in spontaneous probation can be observed "in the early and middle juvenile phases".[38] But the actual question is this: How could the discussion on juvenile crime law shift its focus so strongly from episodic offending as the norm to the "multiple offender" as the exception?

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[36] See Junger-Tas/Haen-Marshall/Ribeaud, Delinquency in an International Perspective. The International Self-Report Delinquency Study, 2003; M. Walter, *Jugendkriminalität* [Juvenile Delinquency], 3rd ed. 2005, p. 216 et seq.

[37] Indicators are: entry age, duration of abnormal behaviour and psycho-social problems, see Naplava, *Junge Mehrfachtatverdächtige in der Polizeilichen Kriminalstatistik Nordrhein-Westfalen* [Young Suspected Multiple Offenders in the Police Crime Statistics of North Rhine-Westphalia], in: *BewHi* 2006, p. 272.

[38] Boers/Walburg/Reinecke, *Jugendkriminalität – Keine Zunahme im Dunkelfeld, kaum Unterschiede zwischen Einheimischen und Migranten* [Juvenile Delinquency – No Increase in the Rate of Unreported Cases, Hardly any Differences between Locals and Migrants] , in: *MschrKrim* 2006, p. 63, 75; see also Stelly/Thomas, *Die Reintegration jugendlicher Mehrfachtäter* [The Reintegration of Juvenile Multiple Offenders], in: *ZJJ* 2006, p. 45 et seq.

The beginning of criminal responsibility (14 years) was not chosen arbitrarily, but has become standard in most European countries. And that standard is borne out by developmental psychology studies.[39] The flexible young adult rule is gaining increasing interest at international level. Those involved in the crime policy debate that tend towards a purported rule-exception relationship that should always lead to the application of adult law are ignoring the dogmatic view of law at its core and the legislature's intention. It cannot be emphasised enough that the Council of Europe requires that its member states introduce a rational and scientifically founded crime policy.[40] In its judgment of 31 May 2006 the Federal Constitutional Court also obligated the legislature to introduce a concept of resocialisation that exhausts "the know-how available in prison practice" and that must be "oriented to the level of scientific knowledge".[41]

5. National importance of standards in Germany

Germany compares favourably with other countries in terms of its Youth Courts Act. The young adult rule, the comprehensive catalogue of possible orders, the high rate of measures of diversion (nearly 70%) and efforts to avoid pre-trial detention, for example, should be highlighted. Despite the shortage of resources in the prison system, the conditions are satisfactory in an international comparison (47 member states of the Council of Europe). The authorities are serious about developing and implementing treatment programmes.

Nevertheless, improvements could be made. Other countries are more consistent as regards maximum punishment and stay below the 10-year limit set in German youth crime law. Section 37 of the Juvenile Courts Act still does not ensure that all juvenile court judges and public prosecution offices have "educational competence" and "experience in bringing up children", to quote the law itself.[42] In comparison to the requirements formulated by the Council of Europe, the regulations governing

[39] See Hommers/Lewand, *Zur Entwicklung einer Voraussetzung der strafrechtlichen Verantwortlichkeit* [On the Development of a Precondition for Criminal Responsibility], in: *MschrKrim* 2001, p. 425 et seq.
[40] See no. 5 of Rec(2003)20 of the Council of Ministers: “Interventions with juvenile offenders should, as much as possible, be based on scientific evidence on what works, with whom and under what circumstances.”
[41] Federal Constitutional Court *NJW* 2006, 2093, 2097.
[42] See Drews, *Anspruch und Wirklichkeit von § 37 JGG* [Aspiration and Reality of Section 37 of the Juvenile Courts Act], in: *ZJJ* 2005, p. 409 et seq.

necessary defence (section 68 of the Juvenile Courts Act) and on the restriction of legal remedies (section 55 of the Juvenile Courts Act) do not come up to expectations.[43]

Deviations from international standards sometimes become apparent in the new juvenile justice laws of individual Länder. One crucial point, for example, is the relativisation of the objective of enforcement, namely resocialisation, on account of the "protection of the general public". The *European Prison Rules* state in regard to the "objective of the regime for sentenced prisoners", that it was to be "designed to enable them to lead a responsible and crime-free life" (no. 102.1). The *European Rules for Juvenile Offenders Subject to Sanctions or Measures* state that the sole goal of the imposition and manner of implementation of sanctions is education and social reintegration, as well as the prevention of re-offending (no. 2). The Commentary thereto states that this leaves a lesser place, and in some countries no place at all, for the principle of general deterrence or other (more punitive) aims that are the feature of the criminal justice system for adults. Further, the term "education" should not be misused by repressive forms of authoritarian education, for example military style detention regimes.

Furthermore, the establishment of the young offender's duty to cooperate appears problematical, as is the transferring of difficult offenders who are unwilling to cooperate to "basic units" without the right to treatment that is associated with that in some places. According to international standards, juvenile offenders, by contrast, are to be "*guaranteed* a variety of meaningful activities and interventions" (no. 50.1 of the *European Rules for Juvenile Offenders Subject to Sanctions or Measures*). In view of prison overcrowding, serious problems have arisen over the past few years in regard to the accommodation of prisoners. Most juvenile justice laws now grant offenders a legal right to accommodation in an individual room during rest periods in line with the Council of Europe's international standards (see no. 18.5 of the *European Prison Rules* and no. 63.2 of the *European Rules for Juvenile Offenders Subject to Sanctions or Measures*).

[43] See European Committee on Crime Problems (CDPC)/Council for Penological Co-operation (PC-CP), Commentary to the European Rules for Juvenile Offenders Subject to Sanctions or Measures, re Rule 13: “In cases where deprivation of liberty is possible, legal defence counsel must be allocated to the juveniles from the outset of the procedure. The rule makes it clear that there is no justification for giving juveniles lesser rights than adults. Therefore regulations that restrict the right to appeal or complaints procedures with arguments of education cannot be justified.”

The fact that deviations are becoming increasingly apparent is certainly connected to the greater density of rules. In its most recent Recommendations of 2006 and 2008 the Council of Europe has gone into far more detail than the UN has ever done. That is an important step towards guaranteeing international standards. However, no. 19, sentence 2 of the *European Rules for Juvenile Offenders Subject to Sanctions or Measures* (see also no. 4 of the European Prison Rules) is surely just as significant when it very clearly states: "Lack of resources shall never justify the infringement of the human rights of juveniles."

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Reintegration after prison: innovative transition management projects

According to current data in the official prison statistics, there are 195 prisons in Germany with a total capacity of 79,436 places. On 31 March 2009 the prison population in fact totalled 73,592, including 11,385 persons in pre-trial detention. 53,543 of the prisoners were serving a prison sentence under adult penal law and 6,180 were serving a youth custody sentence.[1]

Every month 6,000 to 7,000 offenders are released from prisons across Germany. That amounts to some 80,000 offenders who are released from prison every year and who are expected to reintegrate into society and not to reoffend.

Working towards achieving that goal is one of the tasks of the prison system, among others. For example, according to applicable federal law in Germany, by serving their period in prison detainees are to be "equipped to live a socially responsible life without offending (objective of enforcement). The execution of the prison sentence also serves to protect the general public from further offences" (section 2 of the Prison Act).

It was not least with a view to achieving the objective of enforcement that the legislature also formulated three principles for shaping the enforcement of prison sentences (section 3 of the Prison Act): the principle of approximation, the principle of counteraction and, finally, the principle of integration:

1. Life in prison should approximate as closely as possible to general living conditions.
2. The damaging consequences of deprivation of liberty are to be counteracted.
3. Prison is to be geared to helping the offender to integrate into society after release.

[1] 2009 Prison Statistics, published by the Federal Statistical Office, Wiesbaden. Total prisoners and detainees, as at 31 March 2009 (excluding 1,470 "temporarily absent prisoners"). A further 476 prisoners were in preventive detention and 2,008 were serving other forms of deprivation of liberty.

Naturally, whether and to what extent the envisaged reintegration of offenders and the associated crime prevention effects are actually achieved can, however, not be ascertained until after the punishment has been served, for example by means of empirical analyses of recidivism. The available data show that Germany also needs to further improve its resocialisation and reintegration programmes in and after prison.

Reoffending after prison: a key problem

Data included in the recidivism statistics[2] published by the German Federal Ministry of Justice (BMJ) indicate rates of recidivism for ex-offenders of 56% (adults) to 78% (young offenders). Whilst 29% of adults released from prison re-enter within the space of four years on account of reoffending, 45% of young offenders re-entered prison within the same period.

Re-entry into prison is without doubt tantamount to the failure of social reintegration – and is often regarded as the failure of interventions in prison, too. Not always rightly, though, especially since the famous "nothing works" assumption is now regarded as outdated by researchers in the field of the enforcement of prison sentences. Nevertheless, international criminological research is a long way from shedding light on the "black box" of prison treatment programmes and their mode of action or effectiveness, despite ever more precise statistical model analyses.[3] And above all the period after release, with its numerous positive and negative influencing factors on legal probation, continues to be largely *terra incognita.*[4]

It is, however, now no longer a matter for dispute that successful *individual resocialisation* behind bars is set quite narrow boundaries. At the same time, reading the relevant research findings reveals that sufficient use is not being made of the available options for targeted *social reintegration* of ex-offenders after their release

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[2] See Jehle, J.-M., Heinz, W. and Sutterer, P.: *Legalbewährung nach strafrechtlichen Sanktionen. Eine kommentierte Rückfallstatistik* [Legal Probation after Criminal Sanctions. A Commentary on Recidivism Statistics]. Published by the Federal Ministry of Justice. Berlin 2003.

[3] See Petersilia, J.: What Works in Prisoner Reentry? Reviewing and Questioning the Evidence. In: *Federal Probation* 2004 (vol. 68, number 2).

[4] This image, first coined by Müller-Dietz and Schwind in the early 1980s, can now be "explained" relatively well for those released on probation based on diverse studies, but continues to apply to other ex-prisoners (see Müller-Dietz, H.: *Die Bewährungshilfe in Praxis und kriminologischer Forschung. In: Kury, H. (ed.): Prävention abweichenden Verhaltens. Maßnahmen der Vorbeugung und Nachbetreuung* [Probation Assistance in Practice and Criminological Research. In: Kury, H. (ed.): Prevention of Deviant Behaviour. Measures of Prevention and Aftercare]. Köln 1982; and Schwind, H. D.: *Bewährungshilfe im Überblick. Entwicklungen, Aufgaben, Probleme.* [Probation Assistance. An Overview. Developments, Tasks, Problems.] In: *Zeitschrift für Strafvollzug und Straffälligenhilfe* 1983. In: Vol. 32, No. 4, p. 211-215).

and that in particular too little attention has so far been paid to the potential effects of systematically linking *penal and community interventions*.

Treatment and reintegration: complementary tasks

In order to increase prisoners' chances of legal probation and to reduce their risk of reoffending, German prisons have at their disposal a varying spectrum of diverse treatment, support and educational measures. These include therapeutic measures for the treatment of the prisoners' psychological problems, cognitive disorders, behavioural difficulties and addiction problems, as well as training measures to practice behaviour that is socially acceptable or of benefit to individual prisoners.
In addition, prisons offer numerous educational, vocational training and qualification measures. Occupational therapy measures are also availableas well as targeted work placements to promote or maintain employability, plus countless advisory services to support prisoners in a wide variety of problem areas, for example risk of drug use, debt, homelessness, family conflicts and much more. It would not be difficult to extend this catalogue of measures.
There are also community services outside the prison walls that can promote the reintegration of those released from prison. These naturally above all include the judicial social services with original jurisdiction, such as the probation service and the supervision of conduct, and also voluntary ex-offender services. Local government social authorities, addiction advisory centres, therapy facilities, debt counselling and diverse social services run by charities, plus job agencies and public education institutions provide additional services that are not generally explicitly geared to (ex-)offenders, but that can none the less be used by them for the purposes of reintegration when they are entitled to do so.
The highly differentiated range of treatment available in prison is thus contrasted by an extremely fragmented range of services provided by facilities outside the prison system. Both systems developed largely independently of each other. As a result, too little systematic links have been forged across the respective formal jurisdictions, although the "individual treatment" of prisoners and the "social reintegration" of those released from prison ought to be regarded as two sides of the same coin.
In fact there is a large body of empirical evidence to show that interventions in prison cannot develop their potential effects sufficiently enough if they cannot be taken up and reinforced by suitable aftercare measures once prisoners are released. If one

considers that the first six months after release in particular are regarded as the "high-risk time" for ex-offenders to reoffend, as seamless a transition as possible between prison and life outside, the job market and society is therefore especially important.

Transition management: innovative work area

Against this background an intense debate arose in Germany on the creation of a systematic form of "transition management" that is to pave the way for prisoners to leave prison and not reoffend. Transition management can be defined as the *creation of cross-organisational chains of help for the social reintegration of (ex-)offenders* that involves close cooperation between the judicial authorities, voluntary ex-offender services and competent third parties outside of the prison system.

Recently, the judicial administrations, associations and other voluntary ex-offender services in Germany have held numerous specialist conferences on the possibilities and limitations of reintegration programmes that could meet these requirements. Moreover, the topic is increasingly the subject-matter of academic publications, and the two important trade journals *Forum Strafvollzug* and *Bewährungshilfe* each published special issues[5] describing projects that are tackling this task in innovative ways.

The approaches adopted in the projects are too numerous to describe in detail here, but they can roughly be split into three groups, each with a different objective and scope. Transition management is thereby understood as

1. an **organisational dovetailing** of penal and community-based judicial services and assistance provided by ex-offender services, namely the prison social service and the probation service or the supervision of conduct;

2. a **problem-oriented networking** of the prison system with local authority help systems and other social services in the prison's local or regional catchment area, including external advisory services, treatment facilities, housing and employment agencies; and/or

3. a **systematic interlinking** of training, placement and stabilisation measures to reintegrate (ex-)offenders into work that are initiated by the prison system and

[5] See the special issue of the *Zeitschrift für Strafvollzug und Straffälligenhilfe: Forum Strafvollzug* entitled "*Komplexleistung Resozialisierung – im Verbund zum Erfolg*" [The Complex Job of Resocialisation - Succeeding Together], No.2, Vol. 58, March 2009, as well as the special issue of *Bewährungshilfe: Soziales – Strafrecht – Kriminalpolitik* entitled "*Übergangsmanagement*" [Transition Management], No. 2, Vol. 56, 2009.

backed by institutions providing aftercare that are used or funded for this specific purpose.

On account of Germany's federal structure, the 16 Länder (states) each have jurisdiction in regard to regulations governing the prison system, and they therefore differ in regard to the type and context of transition management projects they can offer. Nevertheless, over the past few years the seamless reintegration of (ex-)offenders into training systems and job markets, above all through the latter model, has proved to be an especially important and at the same time especially successful priority area.

Job market integration: a promising field

Focussing on this area primarily suggests itself because

- serious educational deficits and extremely high unemployment rates are the most wide-spread problems faced by offenders who have spent time in prison,
- a steady job is a "key" that helps (ex-)offenders simultaneously solve other problems such as homelessness, debt, risk of addiction etc. that encourage recidivism,
- the range of career promotion and training measures available in the prison system is relatively costly and as a result rightly linked to especially high expectations,
- it has been proven that the (hoped-for) effect that these measures will reduce recidivism falls flat if they do not lead to training or employment after a prisoner's release,
- successful job market integration, by contrast, guarantees long-term treatment and training results and can reduce the risks that (ex-)offenders will reoffend, and
- they can also contribute to reducing the shortage of workers in specific job market segments, even in times of high unemployment.

From a political perspective this also shows that the reintegration of prisoners and those released from prison should not only be regarded as a task of crime policy, but also as one of social and labour market policy. The fact that the majority of German

“pathfinder projects” on transition management were funded by the competent judicial administrations and at the same time sponsored by the Federal Ministry of Labour and Social Affairs and/or the ministries of labour and social affairs of the Länder using money from the European Social Funds speaks for itself here.

European Union initiatives: generating new ideas

The EU initiative EQUAL[6], which was concluded in late 2007, had extremely positive follow-on effects. The programme was launched in order to test new ways of combating discrimination and inequality on the job market in regard to various target groups, including prisoners and those released from prison. In the second funding period of this Community initiative alone a total of 55 so-called "development partnerships" across the whole of Europe were able to test new ideas, tools and methods for the labour market reintegration of (ex-)offenders under laboratory conditions as it were. The majority focused on developing reintegration and after-care programmes, and 31 of these partnerships put the cooperation between the prison system and other judicial and labour market actors that is indispensable for a functioning transition management to the practical test.

Most projects were so successful that their experiences and findings were summarised in a bundle of recommendations that were discussed in summer 2007 at a European-level policy forum held in Warsaw and subsequently published.[7] The most important of these recommendations were:

1. Successful reintegration of (ex-)offenders requires a case management approach from arrest, through the period of imprisonment, to the time of release and beyond.

2. All prisoners should have the opportunity of engaging in training and educational programmes that will increase their employability.

3. Having a job is the most important factor in preventing reoffending so more efforts are required to engage both public and private employers and to explore other forms of job creation.

[6] See http://ec.europa.eu/employment_social/equal/index_de.cfm

[7] European Union Level Recommendations for the Re-Integration of (Ex)-Offenders, see http://ec.europa.eu/employment_social/equal/data/document/0707-recomoff.pdf

4. Attention must also be given to other aspects of the lives of (ex-)offenders if reintegration is to be successfully achieved.

5. There is an urgent need to promote change in prisons and to foster a culture of innovation and feedback in order to support cooperation with external agencies and the type of developmental action that is outlined above.

These recommendations underline the importance of reintegrating ex-offenders into the world of work and also emphasise both the significance of *holistic interventions* within a modern *case management* approach that can combine traditional sentence planning with supplementary after care planning, as well as the need for the *coordinated networking* of all relevant actors, since the prison system cannot be held responsible for reintegrating offenders into the job market on its own because its competence formally ends on the day a prisoner is released.

German project associations: providing the experience base

The German EQUAL partnerships and their accompanying transnational projects did not only decisively influence these recommendations, but also practically implemented them and thereby fulfilled a concluding, sixth recommendation, according to which the integration models tested as part of the EQUAL initiative were to be consolidated in everyday practice so that they might have lasting effect.
The German National EQUAL Offender Network (NEON), comprising five project associations from different Länder that cooperated to create synergies at national level and, furthermore, to promote exchange with our European neighbours, placed especial emphasis on four interlinked fields of work:[8]

1. *Going into prison: Setting the course!*
   New assessment procedures were developed and introduced that take account of both individual skills and job market requirements when examining the prisoner's educational needs. This enables the traditional prison plan to be expanded on the basis of conventional intervention studies to make it a flexible *diagnosis management* that also comprises extended career planning.

[8] See National EQUAL Offenders Network (ed.): *Beschäftigungschancen verbessern – Rückfallrisiken mindern! Die Arbeit mit Strafgefangenen und Haftentlassenen in der Gemeinschaftsinitiative EQUAL* [Improving Job Opportunities – Reducing Risks of Reoffending! Work with Prisoners and Those Released from Prison in the EU Initiative EQUAL]; Federal Ministry of Labour and Social Affairs, 2007; as well as (same ed.): Re-Integrating Ex-Offenders into the Labour Market – Learning from European Neighbours. Federal Ministry of Labour and Social Affairs, 2007.

2. *Learning in prison: Developing prospects!*
   As prisoners' vocational training is often a necessary precondition for their social reintegration, various training modules that can be followed up were developed for the prison system, including modern e-learning courses that can increase prisoners' employability. This enables cross-prison *training management* of prisoners that explicitly takes account of the growing importance of IT skills.
3. *Transitions after prison: Building bridges!*
   However, since vocational training in prison is not a sufficient condition for successfully preventing ex-offenders from reoffending, practicable models were developed and tested for job market-oriented preparation for release and job-stabilising aftercare. They form the basis of a modern *transition management* that, in the interests of successfully reintegrating (ex-)prisoners into work, increasingly incorporates employers.
4. *Networks with the prison system: Strengthening cooperation!*
   In order to be able to create useful information flows beyond prison structures for the development of innovative reintegration measures and to lay the foundation for mutual learning, project associations were also created at regional level, for example the *RESO-Nordverbund*, comprising seven Länder, and the *Südwest-Verbund*, a cooperation platform comprising another three Länder, that cooperate on a project-by-project basis with other Länder and thus promote inter-regional *knowledge management*.

The ideas and results of the *NEON-Verbund* had a great influence on the development of transition management in Germany. These have long since ceased "merely" to be experiences gained as part of a “best practice” model project. In many areas the innovations have already been incorporated into “regular practice” at operational level. This was done in an exemplary fashion in the North Rhine-Westphalian development partnership, called MABiS.NeT (the German acronym for "market-oriented training and employment integration for (ex-)offenders") that was presented at the final EQUAL conference in Lisbon organised by the European

Commission[9] as a German "winning story". A rough outline will therefore be provided in the following by way of example.

North Rhine-Westphalia's reintegration programme: a success story

A three-pillar model was developed, tested and implemented in North Rhine-Westphalia, Germany's most populous Land (some 18 million inhabitants), that can claim to be have become the forerunner for integrated programmes for the vocational reintegration of ex-offenders. The key preconditions for a modern transition management from prison into work or (follow-up) training are defined as "labour market-relevant career promotion in prison", "job market-oriented preparations for release", which follow on from that, and "employment-oriented aftercare".

First pillar: Labour market-relevant career promotion in prison

The first and, as it were, "supporting" pillar of the elements that are to be interlinked is of course as broad a range of vocational training measures as possible that are relevant to the job market. In 2007 the prison system in North Rhine-Westphalia (with a total prison population of 15,415) had 1,285 training, qualification and retraining places in total in numerous skilled trades and industrial and service occupations that are being made use of by more than 3,600 offenders.

If one disregards those offenders who had not completed their training measure at the end of the year, but rather continued into the next, the success rate is remarkable: 59% gained their qualifications. Only just under 3% did not pass their exams, and the remainder left without gaining a qualification for other reasons, for example early release. It is obvious that new ways of achieving continuity in training after release must be guaranteed for this group in particular – who after all made up 11% of participants.

However, additional job placement measures are also very important for those who successfully completed their courses. An analysis of the impact of vocational training measures in youth custody showed that only one third of prisoners who gain some form of vocational training and subsequently find a job or follow-up training appropriate to the measure were re-imprisoned, whilst some 80% of those who

[9] The conference on "Powering a New Future. European Meeting on Social Innovation and Transnational Cooperation" took place in Lisbon from 10-12 December 2008 (http://www.poweringanewfuture.org/index.php?lop=mostra&mode=2&pid=149e9677a5989fd342ae44213df68868. MABiS.NeT was presented as a *winning story* in the field of innovation "Modernising Prison System and (Ex)Offenders' Reintegration" and was also published as a success story on the website of the European Commission http://ec.europa.eu/employment_social/equal/data/document/etg1-exa2-zubilis.pdf.

successfully complete their vocational training courses but do not find work after their release re-enter.[10]

Second pillar: Job market-oriented preparation for release

Employment after release from prison thus not only becomes one of the important elements, but the key factor in the reintegration process. Job or training placement whilst a prisoner is still in prison is therefore a "must" if one wants to safeguard the potential effects on legal probation of the qualifications gained in prison. Based on this insight, MABiS.NeT aims to create a training, placement and follow-up network across the whole of the Land. Building on the groundwork done as part of career promotion in prison, job market-oriented preparation for release from prison forms the second pillar of the reintegration strategy.

This service is now available in 11 prisons, including all five prisons for juvenile delinquents and all those housing female offenders. It focuses on the last three months spent in detention and is aimed primarily at those taking part in vocational training measures, who are then offered careers advice, application training, help in looking for a job or apprenticeship, and direct placement in a job after release.

The results of this supplementary reintegration measure offered in the prison system have exceeded expectations: So far nearly 6,700 offenders have taken part in the programme. A cumulative placement rate of 48% was achieved, with peak values of more than 60% this year.

Third pillar: Employment-oriented aftercare

Nevertheless, successfully placing an ex-offender in a job or apprenticeship is not the same as long-term job market integration. Numerous individual and social problems can jeopardise the success of vocational reintegration and thus also the positive effects of the previous work done within the prison system. It is therefore not only a question of finding a job or (follow-on) training place for the ex-offender as quickly as possible, but also of ensuring that he or she keeps it for as long as possible.

Within the "three-pillar strategy" for vocational reintegration, this difficult task is taken on by specially created aftercare centres that exist in various regions in the Land and

[10] These data are taken from an older study by the author (i.a. published in Wirth, W. (2003): *Arbeitsmarktorientierte Entlassungsvorbereitung im Strafvollzug. Ein Modellprojekt zeigt Wirkung*. [Job Market-Oriented Preparation for Release in Prison. A Successful Model Project]. In: *BewHi* 4/2003, p. 307-318), the results of which tend to be confirmed by current research in Germany and abroad (see, e.g., Visher, C., Debus, S., Yahner, J.: Employment after Prison. A Longitudinal Study of Releases in Three States. Urban Institute Justice Policy Center: Research Brief 2008 http://www.urban.org/UploadedPDF/411778_employment_after_prison.pdf

whose main task is to keep the (ex-)prisoners in steady employment. The objective is to avoid periods of unemployment during the first six months after release or at least to reduce them as far as possible, and thus to reduce the risk of reoffending and re-entry.

This work is done by external, community based institutions that cooperate both with judicial staff and with local job market actors in order to prevent the risk of ex-offenders terminating their employment relationship by providing targeted support and advisory services to those released from prison **and** to employers – also with demonstrable success. For example, controlling data on the one hand show that just under 40% of those released from prison who had a job were at risk of leaving the job or apprenticeship, on the other hand that this was prevented in four out of 10 cases.

Cooperation and networking: creating prospects for the future

However, the fact that the other employment relationships have also proved stable ought in no small part to be down to the reintegration assistance provided by the aftercare centres. The results of the analysis showed that the multiple problems the (ex-)offenders face were dealt with much better the more intensive both the prison system and centres providing aftercare systematically cooperated with community services in order to provide support services to promote integration.

The fact that since mid-2008 only around 15% of those taking part dropped out of the aftercare programme also speaks in favour of such "concerted action", since stopping ex-offenders breaking off their employment relationship or follow-up intervention can be regarded as an indicator for the successful prevention of reoffending and an effective means of avoiding prison. Since neither the prison system nor institutions outside the prison system can achieve either of these on their own, coordinated networking and inter-organisational cooperation are required in order to be able to adequately meet the requirements of the (ex-)offenders' multiple problems and risks of reoffending.

For a long time the idea of the "social integration of offenders" was mainly discussed as an alternative to detention and prison. Regrettably, however, this has not led to a decrease in the prison population, which has increased worldwide. Based on the idea behind transition management, the "social (re)integration of prisoners" is now increasingly being regarded as a cooperative task that the prison system and social actors can only manage together – in both their interests. For by reducing the risk of

reoffending, the reintegration of prisoners and those released from prison can above all serve public safety. However, it also provides the additional opportunity to cope with the growing pressure on prison populations. *Transition management can thus become a useful tool for counteracting prison overcrowding, which is causing serious problems in many countries around the world.*

Dipl.-Volkswirt Dr. Richard Blath

Ministerialrat, Federal Ministry of Justice

Current criminological research projects of the Federal Ministry of Justice

1. Introduction

An article published by the Federal Ministry of Justice (BMJ) of the Federal Republic of Germany on the occasion of the 11th United Nations Congress on Crime Prevention and Criminal Justice showed how criminological research, among other things, can contribute to a rational crime and criminal law policy.[1] The article described the information gathering tools, namely police crime statistics, criminal justice statistics, studies of renewed criminal sanctioning (recidivism), investigations into the rate of unreported cases, periodical reports on crime and crime control as a new method of official reporting, and other criminological research, whose findings provide the basis for a rational crime and criminal law policy. Information was also provided on topics addressed by individual criminological research projects of the Federal Ministry of Justice, although no results were included.

This article contains a summary of some of the findings to come out of criminological research projects of the Federal Ministry of Justice over the past few years. Some current data on the crime situation and criminal prosecution will also be included.

The Federal Ministry of Justice still does not, as a general rule, carry out criminological research projects itself, but commissions university and non-university criminological research facilities with conducting such research. As in the past, decisions regarding the awarding of a research project and concerning its approval are still taken within the Ministry. Since 1 January 2007, research management, that is the concrete awarding of the contract, including contract conclusion, organisational

[1] Blath, Richard; Schnauhuber, Franz: Empirical basis for a rational crime and criminal law policy in the Federal Republic of Germany, in: Federal Ministry of Justice of the Federal Republic of Germany (ed.), Contributions for the 11th United Nations Congress on Crime Prevention and Criminal Justice,18 - 25 April 2005 in Bangkok, Berlin, p. 9-20.

back-up and the conclusion of the research project, including publication of the research findings, has been the responsibility of Federal Office of Justice, which was established on the same day. The responsible Criminology, Crime Prevention, Judicial Statistics Department at the Federal Office of Justice not only administers all judicial statistics, insofar as the Federation has jurisdiction, but also provides back-up support to the Federal Ministry of Justice in regard to other concrete criminological and crime prevention activities.[2] The Federal Ministry of Justice continues to cooperate with the German Institute of Criminology in Wiesbaden, a documentation and research facility founded in 1986 and funded by the ministries of justice of the Federation and of the Länder.[3]

2. Findings of select criminological research projects of the Federal Ministry of Justice

The Federal Ministry of Justice has not commissioned any comprehensive criminological research projects dealing with specific issues relating to crime prevention over the past few years. The Ministry is, however, supporting a model project called "*Präventionsprojekt Dunkelfeld*" (Undetected Cases Prevention Project), which provides free, anonymous advice and treatment to those with a paedophilic disposition. A separate article about this project is also included in this volume, which is why no further details will be provided here.[4] Yet another article deals with the organisation of crime prevention at federal level[5], which is why the focus in the following will be on the criminological research projects of the Federal Ministry of Justice.

2.1 Second Periodical Report on Crime and Crime Control in Germany (Second Periodical Report)

The German Government published the First Periodical Report on Crime and Crime Control in Germany (First Periodical Report) in 2001.[6] The First Periodical Report

[2] Further information is available at: www.bfj.bund.de
[3] Further information is available at: www.krimz.de
[4] Beier, Klaus M.: *Damit aus Phantasien keine Taten werden: Prävention von sexuellem Kindesmissbrauch und Kinderpornografiekonsum im Dunkelfeld* [Ensuring that fantasies are not turned into reality: Prevention of child sexual abuse and child pornography consumption in the Dunkelfeld], p 77.
[5] Kahl, Wolfgang; Bönke, Otto: *Kriminalprävention in Deutschland Aktivitäten und Akteure – ein Überblick* [Crime prevention in Germany Activieties and actors – a survey], p. 119
[6] Federal Ministry of the Interior, Federal Ministry of Justice: First Periodical Report on Crime and Crime Control in Germany, Berlin 2001, hereinafter: First Periodical Report. This report is now only available online:

was written by a committee comprising academics from the fields of criminology, sociology and psychology, representatives from the Federal Criminal Police Office, the Federal Statistical Office and the German Institute of Criminology, as well representatives from the Federal Ministry of the Interior (BMI) and the Federal Ministry of Justice. The report's objective was to provide as comprehensive an overview as possible of the crime situation, law enforcement and execution of sentences, including the prison system, on the basis of crime and criminal justice statistics, and to combine that with the results of scientific studies in the same fields. The report also focused on youth crime, dealt with aspects of crime prevention and included a separate section with the German Government's conclusions.

When the First Periodical Report was published the idea had been to continue publishing it at regular intervals. In 2003 the Federal Ministry of the Interior and Federal Ministry of Justice began preparations for the Second Periodical Report, which was then published in July 2006.[7]

Like the First Periodical Report, the Second Periodical Report gives an overview of the amount, breakdown and development of crime in Germany, looks in detail at the areas of violent crime and select offences committed in relationships, politically motivated crime and terrorism, property offences, economic, environmental and corruption offences, as well as offences involving alcohol and drugs. Recent developments in regard to criminal prosecution, from the start of the investigation proceedings to execution of the sentence, were also included, as were aspects of crime prevention focussing on the evaluation of crime prevention measures and projects. New topics were a comparative assessment of crime in the European and international context, road traffic offences, as well as the public's sense of security and fear of crime. Where appropriate in the description of individual fields of crime, the issue of security in the public sphere was addressed. This time the measures and outlook of the Federal Government were not included in a separate chapter, but in

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http://www.bmj.bund.de/enid/41ce0df248e83196648fe55e2cc1d8c6,0/Studien__Untersuchungen_und_Fachbuecher/ss__Periodischer_Sicherheitsbericht_5q.html

[7] Federal Ministry of the Interior, Federal Ministry of Justice (eds.): Second Periodical Report on Crime and Crime Control in Germany, Berlin 2006, (Second Periodical Report). The Second Periodical Report was published as Bundestag Printed Paper 16/3930.
http://www.bmj.bund.de/enid/41ce0df248e83196648fe55e2cc1d8c6,0/Studien__Untersuchungen_und_Fachbuecher/2__Periodischer_Sicherheitsbericht_14d.html.

context in each of the individual sections of the report. As was the case with the First Periodical Report, a summary was also compiled, which is available in English too.[8]

Violent crime is the best example to take when it comes to showing why it is so important to view all the available indicators on crime development as a whole. Since the late 1980s official statistics have indicated a rise in violent crime, in particular among youth and young adults. Criminological investigations into self-reported delinquency showed that, at least based on the available findings, violent crime among young people had in actual fact dropped in the early 2000s.[9] The impression gained by the public on account of dramatic but isolated cases, namely that the level of violent crime had increased, was not borne out by the differentiated analysis, among other things of the use of firearms[10], and findings from studies into the rate of unreported cases and other sources, for instance on the issue of violence in schools[11]; in fact it was refuted.

Like the First Periodical Report, the Second Periodical Report is not only a rich source of information on the current crime situation, crime development and law enforcement for the two ministries involved, but also for all public offices dealing with issues relating to crime, for universities and colleges, not least for their courses, as well as for interested members of the public.

2. 2 "Criminal Justice in Germany" brochure

Since 1996 the Federal Ministry of Justice has at regular intervals published a brochure entitled "*Strafrechtspflege in Deutschland*" (Criminal Justice in Germany). The brochure provides an overview of the most important data in the field of criminal justice, beginning with cases brought to the attention of the police and suspects investigated by the police. It contains information on developments regarding investigation proceedings completed by the public prosecution offices, on pre-trial detention, the organisation of the courts and how the courts process cases, including convictions and sanctions imposed. It reports on the results of probation assistance,

[8] The links in footnotes 6 and 7 also lead to a summary in English.
[9] Second Periodical Report, loc. cit. (footnote 7), p. 66 et seq., 390 et seq.
[10] Ibid., p. 75-76.
[11] Ibid., p. 390-391.

penal institutions, providing data on the number of offenders and the probable term of enforcement. It also covers up-to-date data on renewed convictions.

The brochure thus also provides an insight into the organisation of criminal justice and describes the various stages in the criminal proceedings, from police investigations to the end of the execution of the sentence. The latest, fifth edition was published in 2009.[12] This report, like the previous ones, is also available in English.[13]

Among other things, the brochure shows that the number of "cases" reported to the police (offences according to the police classification of crimes) in Germany dropped from around 6.75 million to 6.2 million cases in the period between 1993 and 2007.[14] In 2008 the police crime statistics recorded a further drop, to around 6.1 million cases.[15] In the same period, the incidence of violent crime rose from around 161,000 to 218,000 cases, whereby so-called dangerous and serious bodily injury account for the majority in regard to the number and development of violent crimes.[16] The number of intentional homicides dropped in the same period from 4,259 to 2,347, as did the number of robbery offences, namely from 61,757 to 52,949.[17]

The brochure also shows that of the around 4.9 million investigation proceedings terminated by the public prosecution offices, only around 12% led to charges being brought and a further around 12% led to the filing of a motion for an arrest warrant to be issued (comparable to the preferring of charges), whilst a large proportion of terminated investigation proceedings led to discharge without condition for petty offences (21.6%)[18] or with conditions (4.9%)[19]. A further 26.5% of the terminated

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[12] Jehle, Jörg-Martin: *Strafrechtspflege in Deutschland. Fakten und Zahlen* [Criminal Justice in Germany. Facts and Figures], published by the Federal Ministry of Justice, Berlin 2009. http://www.bmj.bund.de/enid/07116c78351b41027b19acb152e8e341,61f5b3305f7472636964092d0933333136/Studien__Untersuchungen_und_Fachbuecher/Strafrechtspflege_in_Deutschland_113.html

[13] Jehle, Jörg-Martin: Criminal Justice in Germany. Facts and Figures, published by the Federal Ministry of Justice, Berlin 2009. The link in footnote 12 also leads to a summary in English.

[14] Jehle, loc. cit. (footnote 12), p. 54. To facilitate comparisons, the graph on p. 12 of the brochure refers to the corresponding trends in the former West Germany, including Berlin.

[15] See Federal Criminal Police Office (ed.), Police Crime Statistics 2008, Wiesbaden 2009, p. 32, hereinafter: PCS 2008. http://www.bka.de/pks/pks2008/index.html

[16] Jehle, loc. cit. (footnote 12), p. 13, 55. This trend was interrupted for the first time in 2008, when around 211,000 million violent offences were committed; see PCS 2008, loc. cit. (footnote 15), p. 227.

[17] Jehle, loc. cit. (footnote 12), p. 13, 55. In 2008 the number of reported intentional homicides and the number of robbery offences dropped again; see PCS 2008, loc. cit. (footnote 15), p. 129, 139.

[18] Pursuant to section 153 of the Code of Criminal Procedure or section 45(1) of the Juvenile Courts Act. In addition, the report also covers terminations pursuant to section 45(2) of the Juvenile Courts Act, as well as terminations pursuant to section 154(1) of the Code of Criminal Procedure on account of "insignificant secondary offences".

[19] Pursuant to section 153a of the Code of Criminal Procedure.

investigation proceedings were discharged because charges could not be brought for factual or legal reasons[20] and a further 23% were discharged by other means.[21]

The majority of those convicted under general criminal law are sentenced to pay a fine (81%), some 13% are given a suspended prison sentence and some 6% are given an enforceable prison sentence.[22] In the case of around 70% of those sentenced under youth crime law, the proceedings were terminated without formal court proceedings – as part of what is known as diversion.[23] Looking at the sanctions imposed by a court under youth crime law, proceedings are discharged with or without conditions in some 31% of cases, some 40% of those convicted are given so-called disciplinary means (excluding detention of juvenile delinquents), some 14% detention of juvenile delinquents, and some 4% so-called disciplinary measures for juvenile delinquents such as certain instructions. A suspended youth custody sentence is issued in around 7% of cases, an enforceable youth custody in some 4% of cases.[24]

The number of prisoners and those in preventive detention rose considerably in the 1990s until the early 2000s, then dropped. On 31 March 2007 there were 75,756 prisoners and detainees, of whom 71,688 were male and 4,068 female.[25] The number of prisoners dropped considerably thereafter: On 31 March 2009 there were 73,592 prisoners in German prisons, of whom 69,666 were male and 3,926 female.[26] Different trends were registered for the different types of enforcement. The drop in the overall number of prisoners is mainly due to the considerable drop in the number of pre-trial detainees. The number of prisoners completing a prison sentence continued to rise until the mid-2000s, then dropped.[27]

[20] Pursuant to section 170(2) of the Code of Criminal Procedure.
[21] Jehle, loc. cit. (footnote 12), p. 19-20.
[22] Ibid. p. 30.
[23] Second Periodical Report, loc. cit. (footnote 7), p. 558.
[24] See Jehle, loc. cit. (footnote 12), p. 37.
[25] Ibid., p. 47.
[26] Federal Statistical Office (ed.) *Bestand der Gefangenen und Verwahrten in den deutschen Justizvollzugsanstalten am 31. März 2009* [Number of Offenders and Detainees in German Prisons on 31 March 2009], Wiesbaden 2009. https://www.ec.destatis.de/csp/shop/sfg/bpm.html.cms.cBroker.cls?CSPCHD=00000001000048c34iJj000000lqAfwyf2AmHadQ9XTx0nPQ--&cmspath=struktur,vollanzeige.csp&ID=1024197
[27] See Jehle, loc. cit. (footnote 12), p. 47.

2. 3 Legal probation following criminal sanctions

Renewed criminal sanctioning is discussed both within the field of criminology and by those working on criminal law policy, often also under the heading of "recidivism", as a key indicator for the success or failure of criminal sanctions. The indicator function of "legal probation following criminal sanctions", which varies in the terminology used in empirical social research, in regard to the success or failure of criminal sanctioning is at first glance apparent. When someone who has been given a criminal sentence or another criminal law measure ordered without formal sentencing by a court then reoffends, it seems obvious to assume that this person has not been affected by the experience of the punishment suffered and "that is why" he or she has reoffended. Therefore, one could assume, the punishment or the measure has not "had any effect". This way of looking at things is based on the theoretical assumption that the punishment or ordering of the measure is the only explanatory factor for the reoffending. According to prevailing criminological opinion, this perspective is, however, at the very least too narrow, possibly even wrong. A monocausal view both in the theory formation of and empirical research into punishable behaviour is – rightly – rejected by the overwhelming majority. There are generally numerous circumstances – "explanatory factors" – for behaviour which possibly – as established at a later date by a court or law enforcement authority – violates criminal provisions.

If, however, renewed or recurrent punishable behaviour cannot only be explained on the basis of a previous sanction, then the question remains of why renewed criminal sanctioning is even studied at all. It is in fact the case that no causal relationship can or should be ascribed to the statistical connection between the commission of criminal offences and previous criminal sanctions alone. Research into legal probation therefore first and foremost serves a descriptive purpose, by describing actual circumstances. Studies of legal probation look into how many people, often differentiated according to gender, age and nationality, who have been given criminal sanctions over a specific period, or who have been released from prison over a specific period in the case of deprivation of liberty, reoffend within a specified observation period or have had sanctions imposed on account of their reoffending.

Such investigations also generally look into what offence has been committed and the form of the renewed criminal law reaction.

Such an approach can answer a number of questions that are of considerable importance both for criminology and for criminal law policy, for instance: Are the rates of legal probation for different sanctions the same or different, and if so, by how much? Do the rates of legal probation differ in regard to type or severity of the offences committed? Do the rates of legal probation change in accordance with age? Do the rates of legal probation change in regard to similarly defined persons or groups of sanctions over time? The significance of an examination of the rates of legal probation is, therefore, not so much being able to determine their absolute quantity than that it enables a comparison to be drawn between certain groups of persons, groups of offences or criminal sanctions. This also applies in view of the aforementioned fact that no simple causal relationship can be attributed to the differences.

Nevertheless, a number of facts that are of great practical relevance can be derived from such studies both with regard to a scientific interest in criminology and with regard to criminal law policy. If, for example, one examines the rates of legal probation for criminal sanctions of varying severity, for instance the length of the imposed prison sentence, and finds that longer prison sentences are not necessarily linked to lower rates of legal probation, criteria can, at least from an empirical point of view, be developed therefrom regarding whether the call for greater sanctions appears sensible from an empirically rational point of view. Or, if one examines rates of legal probation in connection with age and finds that from a certain age the rate of legal probation generally increases, then such findings can be used to develop criteria on whether it is necessary to provide measures to prevent young people reoffending. In addition, rates of legal probation gain considerable importance if they are calculated for certain sanctions or persons who have experienced a specific form of treatment inside or outside of prison.

Reference to the study entitled "Legal Probation Following Criminal Sanctions" of the Federal Ministry of Justice was already made in articles published on the occasion of

the 11th United Nations Congress.[28] Following two feasibility studies carried out in the 1990s, a research project was commissioned on this issue in late 2006.[29] This study took account of all the relevant entries regarding those who had in 2004 either been given a criminal sanction not involving deprivation of liberty (insofar as they were entered in the Federal Criminal Register) or who were released in 2004 from execution of a sanction involving deprivation of liberty. The data were extracted from the Federal Central Criminal Register in April 2008. This allowed the renewed criminal sanctioning of the described group of persons to be monitored for a period of three years. The data include details on the person's gender, age, nationality and previous convictions, the type of offences leading to a conviction or to another criminal sanction, as well as the type of criminal sanction imposed. The data were analysed according to a predetermined pattern that differentiated the number and type of the renewed convictions according to various versions, criminal reactions and groups of offences.

The study is still ongoing. Nevertheless, preliminary results are already available.[30] The study involves just over one million people who in 2004 – as described in the above – were either given a sanction not involving deprivation of liberty or another youth crime law reaction, or who – in the case of sanctions involving the deprivation of liberty – were released from detention. Over the three-year observation period, 33% of the people surveyed had new criminal sanctions imposed.[31] [32] Based on frequency, 54% of the surveyed persons had in 2004 been given fine, 26% were not prosecuted under youth crime law or their proceedings were terminated, 9% were given a suspended prison sentence or detention; in 8% of cases another decision

[28] Blath; Schnauhuber, loc. cit. (footnote 1), p. 13-14.
[29] Findings from the second feasibility study were also published by the BMJ: Jehle, Jörg-Martin; Heinz, Wolfgang; Sutterer, Peter: *Legalbewährung nach strafrechtlichen Sanktionen. Eine kommentierte Rückfallstatistik* [Legal Probation Following Criminal Sanctions. A Commentary on Recidivism Statistics], published by the Federal Ministry of Justice, Mönchengladbach 2003; online publication: http://www.bmj.bund.de/enid/22e03f8dcc2d2692e45e4eb875c63862,61f5b3305f7472636964092d0933333136/Studien__Untersuchungen_und_Fachbuecher/Legalbewaehrung_nach_strafrechtlichen_Sanktionen_111.html.
[30] *Legalbewährung nach strafrechtlichen Sanktionen. Vorbericht zur Rückfallerhebung für das Bezugsjahr 2004* [Legal Probation Following Criminal Sanctions. Preliminary Report for the Recidivism Study for 2004], unpublished manuscript 2009, hereinafter: Legal Probation 2009.
[31] Ibid., p. 17.
[32] As already mentioned, the survey only includes persons entered in the Federal Central Criminal Register. Under German law, public prosecution offices can also formally terminate instituted criminal proceedings, in some cases with, in some cases without the consent of the court. All decisions taken in criminal proceedings under the law of juvenile courts are also entered in the Federal Central Criminal Register, even if the public prosecution office has finally terminated the proceedings. By contrast, investigation proceedings conducted under general criminal law which can also be linked to criminal sanctioning (conditions or instructions) are not entered in the Federal Central Criminal Register, but in the Central Public Prosecution Proceedings Register. Such proceedings were not included in the survey.

was taken by the judge in a juvenile court, in 2% of cases an enforceable prison sentence or detention, in 1% of cases a suspended youth custody, in 0.4% of cases enforceable youth custody was imposed, and in 0.1% of cases another decision was taken.[33]

Examining the entire group with regard to follow-up decisions within the three-year observation period, the decisions in this period are distributed as follows: 67%: no follow-up decision (i.e. no renewed criminal sanctioning), 14%: fine, 5%: disciplinary measures for juvenile delinquents imposed by a judge in a youth court, 5%: disciplinary measures, 5%: suspended prison sentence, 4%: no prosecution or proceedings terminated pursuant to sections 45, 47 of the Juvenile Courts Act, 3%: enforceable prison sentence, 1%: suspended youth custody, 1%: enforceable youth custody.[34]

Even this initial result reveals that the overwhelming majority of criminally sanctioned persons does not reoffend within an observation period of three years, at least not so that a decision has to be entered in the Federal Central Criminal Register. And if a renewed criminal law reaction is necessary on account of their reoffending, then in the majority of cases the sanction does not involve deprivation of liberty.

Here are a few of the other findings from this first preliminary report: The highest rate of recidivism (66%) was recorded in the case of an enforceable youth custody sentence, the lowest rate of recidivism (27%) in the case of fines.[35] Generally speaking, sanctions not involving deprivation of liberty are linked to a lower rate of recidivism than sanctions involving deprivation of liberty. The rate of recidivism increases with age. The largest share of follow-up decisions with deprivation of liberty is registered in the 21-24 age group.[36] More men are convicted a second time than women (12 percentage point difference).[37] There is no linear statistical connection between the length of an unconditional prison and youth custody sentence and the rate of recidivism: In the case of prison and youth custody sentences of no more than 12 months the rate of recidivism increases; in the case of longer prison and youth

[33] Legal Probation 2009, loc. cit. (footnote 30), p. 18.
[34] Ibid.
[35] Ibid., p. 22.
[36] Ibid., p. 23 et seq.
[37] Ibid., p. 28.

custody sentences it decreases. The lowest rate of recidivism was registered after life prison sentences.[38] The rate of recidivism increases the more previous convictions a person has.[39]

These findings confirm the differences in rates of recidivism that were already registered in the second feasibility study for different groups of persons and sanctions.[40] Nevertheless, the rates of recidivism in this ongoing new study are lower than those in the 2003 study because in the ongoing study the observation period was three years, in the earlier study four years.

The concluding report for the ongoing project is expected to be completed by late 2009. It has already been decided that the study will be continued. In this second wave the data is to be extracted from the Federal Central Criminal Register in 2010 and 2011 and then added to available data. This renewed collation of data will permit observation periods of five and six years. In addition, annual rates of recidivism can then be calculated for different observation periods, ranging between two and three years.

2.4 Evaluation of social therapy interventions for sex offenders in prison

The Act to Combat Sexual Offences and Other Dangerous Offences of 26 January 1998 considerably expanded the provisions governing the treatment of sex offenders in prison.[41] According to section 9(1) of the Prison Act in the version applicable since 1 January 2003, an offender is to be transferred to a social therapy facility if he has been sentenced to a fixed-term period of imprisonment of more than two years on account of a sex offence and the treatment in a social therapy facility is advisable. The number of social therapy facilities (separate prisons or units in larger regular prisons) increased from 23 in 1999 to 52 in 2009.[42] The number of prison spaces available in these facilities rose from 982 to 2,043 over the same period.[43]

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[38] Ibid., p. 34.
[39] Ibid., p. 39 et seq.
[40] Jehle; Heinz; Sutterer, loc. cit. (footnote).
[41] Federal Law Gazette I, p. 160.
[42] German Institute of Criminology: *Sozialtherapie im Strafvollzug 2009* [Social Therapy in Prison 2009], Wiesbaden 2009, p. 40.
[43] Ibid.

In Germany, jurisdiction for prisons lies with the federal Länder (states). The majority of the Länder have commissioned their own research centres or universities with evaluating social therapy interventions for sex offenders. In 2004 the Federal Ministry of Justice asked the German Institute of Criminology to provide back-up support to a research project on the extended possibilities available as part of social therapy interventions and to document the research projects in order to be able to evaluate the treatment. The final report is currently being prepared for publication.[44] Among other issues, the report addresses organisational aspects of social therapy facilities, for example their management, occupancy and the size and number of rooms. Special emphasis is given to treatment programmes for sex offenders offered in the facilities, to psychological test methods and prognostic tools used in the context of treatment, to the framework conditions for therapy, such as staff allocation, therapy planning, possibilities for relaxing prison conditions, as well as work and training opportunities for offenders. Another section deals with the possibilities of supporting offenders after their release from prison.

The report's second focus is on describing research projects that evaluate social therapy offered within the German prison system that have already been launched or completed. Following an introductory section on previous German and international evaluation studies, the report describes the individual evaluation projects that were launched pursuant to new legislative provisions, some of which have already been completed. The description shows that the evaluation studies differ considerably in regard to the topics they cover and their duration. Some evaluation projects specifically evaluate the applied treatment programmes in regard to renewed criminal sanctioning following release. Others deal with the question of which detained sex offenders can be treated by means of which therapy, and with the predictors for recidivism. Based on the insights gained regarding previous projects a model concept is then proposed for further relevant evaluation projects.

2.5 Studies of victim-offender mediation

Victim-offender mediation is a key element of the so-called restorative justice approach that is applied in Germany. Victim-offender mediation is based on the idea

[44] Spöhr, Melanie: *Sozialtherapie von Sexualstraftätern im Justizvollzug: Praxis und Evaluation* [Social Therapy of Sex Offenders in Prison. Practice and Evaluation], Mönchengladbach 2009.

that an offence represents a conflict between the perpetrator and the victim that must be resolved or settled. A procedure was thus developed in which the background to and subject-matter of the conflict is dealt with under the guidance of a mediator and a consensual solution sought.[45] Victim-offender mediation was developed in the 1980s in criminal justice practice. The legal basis for this type of criminal law reaction, in which the focus is on restitution for harm caused, was not created until later on.[46]

The Federal Ministry of Justice had supported this development by commissioning several research projects.[47]

Since 2000 the Federal Ministry of Justice has been funding what have become known as the Victim-Offender Mediation Statistics. Since 1993, centres carrying out victim-offender mediation have been using a questionnaire to voluntarily pass on statistics on perpetrators and victims, on the offences committed and the course of the mediation proceedings. The statistics are then used in the research project. From 1993 to 2005 between 28 and 72 centres took part in the survey each year.[48] Details recorded include the gender, age and nationality of the accused and the injured party, on the damage suffered, the level of acquaintance between the accused and the injured party, on the parties' willingness to reach a settlement, matters discussed at the mediation meeting and the result of efforts to reach a settlement. It is mainly

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[45] Background, content and trends regarding victim-offender mediation are explained in detail in: Dölling, Dieter et al.: *Täter-Opfer-Ausgleich in Deutschland. Bestandsaufnahme und Perspektiven* [Victim-Offender Mediation in Germany. Survey and Outlook]. Published by the Federal Ministry of Justice, Bonn 1998.

[46] By means of the First Act to Amend the Juvenile Courts Act of 30 August 1990, Federal Law Gazette I., p. 1853, Article 1. no. 1 of the Crime Suppression Act of 28 October 1994, Federal Law Gazette I., p. 3186 and the Act to Incorporate Victim-Offender Mediation under Procedural Law and to Amend the Telecommunications Act of 20 December 1998, Federal Law Gazette I., p. 2194.

[47] Federal Ministry of Justice (ed.), *Schadenswiedergutmachung im Kriminalrecht. Untersuchung des Fachausschusses I „Strafrecht und Strafvollzug“* [Restorative Justice in Criminal Law. Study by the Committee I on Criminal Law and Enforcement], German Association of Prison Services, Bonn 1988. Schreckling, Jürgen: *Täter-Opfer-Ausgleich nach Jugendstraftaten in Köln* [Victim-Offender Mediation Following Juvenile Delinquency in Cologne], Bonn 1991. Schreckling, Jürgen.: *Bestandsaufnahmen zur Praxis des Täter-Opfer-Ausgleichs in der Bundesrepublik Deutschland* [Surveys of the Practice of Victim-Offender Mediation in Germany], Bonn 1992. Dölling, Dieter, et al., loc. cit. (footnote 45).

[48] Kerner, Hans-Jürgen; Hartmann, Arthur: *Täter-Opfer-Ausgleich in der Entwicklung. Auswertung der Bundesweiten Täter-Opfer-Ausgleichs-Statistik für den Zehnjahres Zeitraum 1993 bis 2002* [Trends in Victim-Offender Mediation. Evaluation of the National Victim-Offender Mediation Statistics over the Ten-year Period from 1993 to 2002], Mönchengladbach 2005, p. 122, hereinafter cited as Victim-Offender Mediation Statistics 1993-2002. Kerner, Hans-Jürgen, Hartmann, Arthur: *Täter-Opfer-Ausgleich in Deutschland. Auswertung der bundesweiten Täter-Opfer-Ausgleichs-Statistik für den Jahrgang 2005, im Vergleich zu den Jahrgängen 2003 und 2004, sowie ein Rückblick auf die Entwicklung seit 1993* [Victim-Offender Mediation in Germany. Evaluation of the National Victim-Offender Mediation Statistics for 2005, in Comparison to 2003 and 2004, and a Retrospective on the Trend since 1993], Berlin 2008, p. 63, hereinafter cited as Victim-Offender Mediation Statistics 2005, only published online. http://www.bmj.bund.de/enid/48f532cbcbcc1bdc9b4a9139e73fedcf,0/66.html

the public prosecution offices that initiate attempts at victim-offender mediation.[49] The accuseds' willingness to reach a settlement is consistently very high.[50] This is not surprising given the fact that one can assume that when the public prosecution office or court suggests victim-offender mediation the accused can be presumed to be willing in principle to participate. But the proportion of injured parties who declared they were willing to take part in such procedures was also relatively high between 1993 and 2000 (between 75 and 80%).[51] However, since 2001 there has been a marked decline in the share of injured parties who have been prepared to take part in victim-offender mediation (2005: 57%).[52] Nevertheless, where a victim-offender mediation meeting did take place, an agreement on compensation was also reached.[53] The agreement on compensation that was reached was fulfilled in 90% of cases.[54]

As the exemplary description of a few results from the victim-offender statistics shows, this form of criminal law reaction has proved successful in the sense that in the overwhelming majority of cases a settlement can be reached between the accused and the injured party. Because only a few centres offering victim-offender mediation actually supply data to the Victim-Offender Mediation Statistics, the statistics do not give an overall impression of the frequency and distribution of victim-offender mediation in Germany. That was why the Federal Ministry of Justice has commissioned research projects at certain intervals, in 1990[55], 1995[56] and most recently in 2008, with the objective of surveying the spread of victim-offender mediation in Germany. The survey provided and provides a complete overview of all those centres offering victim-offender mediation. Experience has shown that at least up until 1995 the number of offices engaged in victim-offender mediation significantly increased – nearly fourfold between 1989 and 1995 alone.[57] Criminal justice statistics

[49] Victim-Offender Mediation Statistics 1993-2002, loc. cit. (footnote 48), p. 17 et seq., Victim-Offender Mediation Statistics 2005, loc. cit. (footnote 48), p. 11.
[50] Victim-Offender Mediation Statistics 1993-2002, p. 72 et seq., Victim-Offender Mediation Statistics 2005, p. 25-26.
[51] Victim-Offender Mediation Statistics 1993-2002, p. 64 et seq.
[52] Victim-Offender Mediation Statistics 2005, p. 24.
[53] Victim-Offender Mediation Statistics 1993-2002, p. 84 et seq., Victim-Offender Mediation Statistics 2005, p. 31 et seq.
[54] Victim-Offender Mediation Statistics 1993-2002, p. 99 et seq., Victim-Offender Mediation Statistics 2005, p. 34-35.
[55] Schreckling, Jürgen, loc. cit., (footnote 47).
[56] Dölling, Dieter, et al., loc. cit., (footnote 45).
[57] Ibid., p. 131.

reveal that this upward trend continued between 2001 and 2007.[58] The ongoing research project that is surveying victim-offender mediation is expected to provide wide-ranging information on the trends experienced by the centres engaged in this form of mediation and the cases dealt with by them between 1996 and 2008.

3. Outlook

The criminological research projects of the Federal Ministry of Justice detailed by way of example in the above aimed to show how criminology, in particular in combination with the available crime and criminal justice statistics, can support crime and criminal law policy.

The two Periodical Reports provide a comprehensive picture of the amount, breakdown and development of crime and criminal prosecution. These reports thus provide the framework data for crime and criminal law policy, but also deliver some detailed information on individual areas, provide indications in regard to the implementation of previous crime and criminal law measures, and can show - at least from the empirical perspective – where further action needs to be taken. However, they thus not only serve policy-making and the practical administration of justice. They also provide the general public with important information.

On account of the associated time and expense, periodical reports on crime and crime control can only be compiled at certain intervals. In the interim, the brochure entitled "Criminal Justice in Germany" provides a summary of current trends in regard to crime and criminal prosecution.

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[58] The "Survey of investigation proceedings conducted in public prosecution offices and offices of the public prosecutor at a local court“ and the "Survey of criminal and punitive fines proceedings" collated data from 2001 onwards on conditions imposed by public prosecution offices and courts regarding taking part in victim-offender mediation. Since 2003 the Criminal Justice Statistics have recorded whether the convicted person was instructed to take part in victim-offender mediation. See details in: Federal Statistical Office (ed.), Public Prosecution Offices – Subject-matter Series 10 Series 2.6, https://wwwec.destatis.de/csp/shop/sfg/bpm.html.cms.cBroker.cls?CSPCHD=001000010000045l6tjMI000000Df3uwUNiimvb9wjvznwWkQ--&cmspath=struktur,sfgsuchergebnis.csp&action=newsearch&op_EVASNr=startswith&search_EVASNr=2421 .
Federal Statistical Office (ed.): Criminal Courts – Subject-matter Series 10 Series 2.3, https://www-ec.destatis.de/csp/shop/sfg/bpm.html.cms.cBroker.cls?cmspath=struktur,sfgsuchergebnis.csp&action=newsearch&op_EVASNr=startswith&search_EVASNr=2422.
Federal Statistical Office (ed.): Select Statistics on the Administration of Justice – Subject-matter Series 10 Series 1, https://wwwec.destatis.de/csp/shop/sfg/bpm.html.cms.cBroker.cls?cmspath=struktur,sfgsuchergebnis.csp&action=newsearch&op_EVASNr=startswith&search_EVASNr=241.

As in the present case, studies on legal probation provide comprehensive information on renewed criminal law sanctioning and thus on the one hand give important indicators for how the criminal sanction system can be further developed, and on the other provide basic data for scientific research on recidivism and criminal careers.

Criminological investigations on the practical application of new criminal law provisions can indicate to the legislator whether the objectives pursued by amending certain provisions have actually been achieved and whether further action needs to be taken.

Although criminological research can support crime and criminal law policy, it can be no substitute for political goals on the one hand and embedding political action in the rule of law on the other.

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The Beccaria Programm: Quality through Qualification

Crime prevention requires the cooperation of many individuals and institutions with the goal of preventing criminal offences and enhancing the feeling of safety and security among the citizenry. The causes and forms of criminality and violence are manifold. It is possible to find the root causes and combat them in a targeted and effective manner only if all societal forces take on and share responsibility and develop common strategies. This insight has been the impetus in establishing Prevention Councils and comparable groups throughout Germany at the level of the Länder and the municipalities.

The Federal Republic of Germany is made up of 16 *Länder*. There are meanwhile bodies in 14 *Länder*[1] which dedicate themselves especially to the issue of crime prevention. The majority of these bodies are located within the Ministries of the Interior and Justice, but they collaborate with other Ministries as well.

One of these Land Prevention Councils (*Landespräventionsräte* – hereinafter LPC) is located in the *Land* of Lower Saxony and is the subject of the following comments. Special focus will be placed on a particular aspect of the LPC's work: quality orientation in crime prevention in the form of its Beccaria Programme.

1. The Lower Saxony *Land* Prevention Council

Lower Saxony's Land Prevention Council was founded in 1995. Meanwhile, more than 250 member organisations from Lower Saxony, representing all relevant parts of society, contribute their expertise to developing security and criminal policy concepts, and support the implementation of these concepts in the various fields. Approximately 200 community prevention bodies are active on behalf of the member

[1] *Land* Prevention bodies: Berlin, Brandenburg, Bremen, Hamburg, Hesse, Mecklenbourg Western Pomerania, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein, Thuringia. In the *Lands* of Bavaria and Baden-Württemberg, the police have primary responsibility for crime prevention work.

organisations. The core of the Lower Saxony Land Prevention Council's work is to provide these groups with constant support and a framework to coordinate their important efforts.

Goals and Activities of the LPC:

- The LPC enhances crime prevention at the community level.
- The LPC develops concepts and determines the framework for their implementation.
- The LPC promotes quality assurance and improvement in crime prevention.
- The LPC offers a platform for information and knowledge transfer.
- The LPC coordinates and supports the building of crime prevention networks.
- The LPC cooperates with crime prevention institutions outside of Lower Saxony.
- The LPC teaches competence in crime prevention.
- The LPC maintains public relations by publicising the goals, substance and methods of crime prevention in all of society.
- The LPC promotes citizen commitment to crime prevention.

The following provides an overview of how these goals are to be attained by briefly describing the focus of the *Land* Prevention Council's work.

1.1 Preventive activities at the community level

The LPC provides services for communities in the field of crime prevention. These include:

- On-site consulting on issues concerning the establishment of a prevention council,
- Support in project planning and consulting,
- Chairing events and workshops,
- Promoting model projects in crime prevention,
- Imparting information and knowledge.

1.2 Domestic Violence

Lower Saxony has brought together various measures to prevent and combat domestic violence under a multidisciplinary *Land* Action Plan, and has established a coordination office at the *Land* Prevention Council. This “Domestic Violence” coordination office provides the following services:

- Supporting practitioners in developing local and regional structures of cooperation,
- Organising and supporting advanced training for social services, women’s counselling centres, the police and judicial officers,
- Acting as an information clearinghouse between the *Land* and the community levels,
- Developing concepts for combating and preventing domestic violence.

1.3 Against right-wing extremism – for democracy and tolerance

The LPR’s focus on right-wing extremism includes, among other activities, the implementation of two national programmes: “Young people for diversity, tolerance and democracy – countering right-wing extremism, xenophobia and anti-Semitism” as well as “Competent for democracy – counselling networks against right-wing extremism.” These programmes ensure an immediate and efficient reaction to problem situations associated with right-wing extremism, xenophobia and anti-Semitism.

1.4 Socio-spatial prevention in networks (SPIN)

With the SPIN project, the original North American prevention programme, “Communities that Care – CTC”, is being piloted in three model locations in Lower Saxony to assess its suitability in Germany. CTC is a steering and prevention strategy at the local level and is based upon scientific longitudinal studies of risk and protective factors for problem behaviour among juveniles. The programme offers instruments for:

- Spatially oriented measurement and prioritisation of risk and protective factors,
- Inclusion of all relevant actors in a comprehensive approach to action,

- Selection of suitable and effective programmes which are adapted to the local situation and geared toward the most urgent risk factors.

These measures are only a few examples of the broad spectrum of activities undertaken by the *Land* Prevention Council. More information on the tasks, projects and cooperative activities with national and international partners is available at www.lpr.niedersachsen.de.

2. Beccaria Programme

Also included among the multifaceted activities of the Land Prevention Council is the Beccaria Programme. Due to its international scope, this programme is described in more detail below.
The Beccaria Programme is the umbrella term designating three successive EU projects realised by the LPR within the scope of the AGIS and ISEC EU programmes:

1. Beccaria: Quality management in crime prevention (2003-2005)
2. Beccaria: Basic and advanced training in crime prevention (2005-2007)
3. Beccaria: Knowledge transfer in crime prevention (2008-2011).

European partner organisations from the following countries are participating in the programme: Belgium, the Czech Republic, Denmark, England, Estonia, France, Hungary, Italy, Poland and Slovenia.

The programme takes its name from Cesare Beccaria. The Italian legal philosopher and criminal-law reformer coined the phrase, “it is better to prevent crimes than to punish them” (1764). Beccaria is considered one of the founders of the Age of Enlightenment in European and criminal law, and a pioneer of modern criminal-law policy. Like Beccaria, the projects' namesake, all three Beccaria projects are united in the goal of working to enlighten the public: Enlightenment on the topic of quality, especially improvement of quality through enhancing qualifications.

2.1 Beccaria: Quality management in crime prevention (2003-2005)

The point of departure for the first Beccaria project was the role of quality in crime prevention, which had previously been neglected. There were virtually no quality criteria for planning, implementing and evaluating crime prevention projects. Both at the national and European levels, expert exchange on this issue had only just begun.

Given the public finance situation, it could be assumed that in the future , all crime-prevention activities must allow themselves to be evaluated even more than before in terms of efficiency and impact. This can be achieved only if, over the long term, evidence-based crime prevention is established as a point of reference.

For that reason, the central aim of the first Beccaria project was to contribute to improving and continuing to develop quality orientation in crime prevention. This included implementing quality management procedures (planning, steering, improvement, etc.). Actors were to be supported in conceiving projects from the outset in such a way as to make them capable of evaluation. If actors are to base their work on quality criteria, they must be provided with the tools necessary for structured procedures and be taught the required know-how.

2.1.1 Help for Getting Help – Internet Evaluation Agency

The Internet evaluation agency, which can be found at www.beccaria.de, creates a network for academics and practitioners in the field of prevention. It strives to provide support and professional help to actors regarding concepts, self-assessment and external evaluation. Service providers can make entries via a password, and create things such as a competence profile. The agency's offerings may be used internationally. The pages for making entries and requests are accessible in German and English.

2.1.2 Help for Self-help - Beccaria standards for assuring the quality of crime prevention projects

Standards as a measure for reviewing project planning and implementation are a first step on the path toward reviewing the effectiveness of crime prevention projects and toward an increased focus on quality. They offer guidelines for securing quality in the work of developers, actors and others with responsibility in crime prevention

The Beccaria standards are designed to ensure that:

- The planning, implementation and evaluation of crime-prevention projects are geared toward the quality criteria enumerated in the relevant literature.
- Projects are generally conceived in a way that makes them conducive to evaluation.
- Scholars, experts, those commissioning and funding projects (for project applications) have the expertise at their disposal to assess project quality.

The standards include quality benchmarks and requirements for planning, implementing and evaluating crime-prevention programmes and projects. They fundamentally incorporate seven steps:

1. Describing the problem

Current situation on site

- What is the problem?
- Where does the problem arise?
- When and to what extent does the problem exist?
- Whom does the problem affect?
- What are the consequences of the problem?

2. Causal analysis

Causes/approaches to explanation

- What are the core causes?
- Which theoretical and/or scientific insights and assumptions as well as empirical insights are there to explain the phenomenon?

3. Determining the goals of prevention, the goals of the project, and target groups

Goals to be attained (clear, measurable and realistic goals)

- What is to be achieved?
- How can this be achieved?
- How can it be quantified? Criteria (for success)
- Who is to be reached?
- When should the goal be achieved?

4. Determining the measures needed to attain the goal

- Which measures are suitable to attain the goals and reach the target groups?
- With which criteria (for success) can we evaluate whether the goal has been attained and the target group reached?

5. Project Concept and Implementation

- Documenting the main working steps, deadlines and responsibilities
- Which resources (personnel, financial, time) are available?
- What opportunities are there for cooperation? Synergy effects?

6. Evaluating the Implementation and Achievements of the Project

Comparing goals and outcomes

- What was to be achieved?
- What was actually achieved? (goals, target groups)
- Why were the goals not attained and target groups not reached?
- Were there any useful or damaging (side) effects?

7. Conclusions and Documentation

- Written documentation of results and insights gained
- Extrapolating recommendations for action, suggestions for improvement
  ➔ result-oriented, systematic improvement of quality

These seven working steps build on one another. Undue focus upon or non-consideration of certain steps will call the overall level of quality into question. Those who develop crime prevention projects are encouraged to reflect on their actions and to proceed step by step.

Establishing standards is an important initial step on the way to reviewing the effectiveness of crime prevention projects and therefore toward an enhanced focus on quality. For that reason, the standards have been translated so far into a dozen languages. However, they alone are insufficient. By themselves they are neither self-explanatory, nor do they represent a *per se* guarantee of quality. The necessary criteria must be fulfilled for them to be applied in practice: Quality through qualification. Qualification is the key word of the second Beccaria project.

2.2 Beccaria: Basic and advanced training in crime prevention (2005-2007)

The necessity of qualification

Crime prevention is a point of intersection for many individuals of various professional backgrounds and specialisations, and belonging to various institutions. These include: Prevention groups, youth assistance, social work, schools, pre-schools, police, justice system, policymaking, press/media, medicine/health care, sport, industry and academia. Accordingly, the individuals involved are teachers, police officers, social workers, sociologists, lawyers, administrators, childcare workers, actors, mediators, etc. As such, it is not surprising that those working in these fields have taken different career paths. They have all undergone professional training in one or more fields. They may have studied social education, received training as mediators, been trained with the police or embarked on a career in administration. What they lack, however, is special training in prevention - because this does not yet exist. There is neither a “traditional access route” nor a “typical” career path in this direction – and certainly no training in crime prevention in order to be able to work in this multi-faceted field. There are certainly many experts in the field. They are characterised by a high degree of commitment as well as a strong identification with their work, and are often idealistic and show maximum dedication. They are also absolutely convinced about what they are doing; after all, the ultimate goal is to

forestall criminality and deviant behaviour and to work actively toward achieving good.

But is this enough? Does this mean that prevention can be practiced by (almost) everyone, even without specialised training in prevention? If crime prevention is enjoying an increase in significance, why is there no typical training for it? Steffen[2] posed this question in 2002. She found that, "…a large number of people, for whom the task is not a usual one, are 'bustling around' in the field of crime prevention. Particularly among the community-based prevention bodies, the great potential of volunteers is consistent with the (almost) equally great deficit in terms of theoretical and methodological know-how. But neither can we simply assume that those traditionally responsible for crime prevention – the police and the justice system – have a good foundation of knowledge and skills for this task…" Steffen criticises the assumption that "everyone knows how to do prevention - people don't need any special training, or special skills and aptitude. But prevention does not come naturally to 'every police officer' and 'all others with responsibility for prevention'; rather, like every other qualitatively challenging activity, it requires basic and advanced training."

Ekblom[3] also points out the deficits in crime prevention training: "No other profession (public health or architecture, for example) would send out its practitioners into the field and expect them to deliver with such limited conceptual resources!"

Crime prevention of high quality – as do other fields – calls for certain expertise and skills, for example systematic procedures as well as planning and implementing measures, projects and programmes in a way that makes them subject to evaluation. This in turn requires skills in crime prevention, for example an awareness of criminological and sociological theory. After all, it is simply not enough to recognise crime problem "x" at location "y" and describe it precisely. In order to explain the problem that has been identified, relevant theoretical and and/or scientific results as well as empirical insights must be considered. Causal conditions must be analysed, influencing factors (such as risk and protective factors) must be taken into account and identified. Project goals and target groups must be defined. This results in posing the following questions: Who is to be reached? What is to be achieved? How can it

[2] Steffen, 2002, p. 15.
[3] Ekblom, 2002, p. 11.

be achieved? How can the goal be quantified (criteria for success)? Evaluating the implementation of the measures and whether the goal has been achieved requires methodological know-how, i.e. skills in quantitative and qualitative procedures, and this expertise does not always exist *per se*.
One way of attaining this expertise is to participate in a targeted qualification programme - such as the Beccaria qualification programme - which does justice to the various levels and needs of those involved in crime prevention and contributes to enhancing their competence and improving the practice of their profession.

2.2.1 The Beccaria Qualification Programme in Crime Prevention

Since 2008, the *Land* Prevention Council of Lower Saxony has offered the Beccaria qualification programme once a year to actors in the field of crime prevention. The 2010 qualification programme has just begun and plans for the 2011 programme are underway. This advanced training programme is unique in Germany, and presumably internationally as well. It teaches basic and advanced skills for prevention work.

2.2.2 Modules

The advanced training course consists of four modules which may be booked individually or as an entire package:
first module: criminology,
second module: crime prevention,
third module: project management, and
fourth module: project monitoring.

Every module lasts two weekends. Because the qualification programme is designed for those who work, the events requiring attendance begin on Friday noon and end Saturday afternoon. The class materials are made available in the form of a Reader and additionally for download from a protected Internet forum accessible only by the participants. In addition to providing the course materials, the forum offers the opportunity for exchange and discussion if the demand is there.

The teaching materials are both founded in science and have a high practical relevance as well. This means that the skills acquired are directly applicable in day-to-day practice. In the criminology module, the participants learn the most important basic terms and are provided with an outline of the developments in criminology. They are familiarised, for example, with the best-known theories of criminality. After the course, they should be in a position to approach theories critically, and use crime statistics (e.g. police crime statistics) for their crime prevention work. They have also gained some insight into the phenomenon of unreported crime.

Following completion of the crime prevention module, the participants should be qualified, with the help of their experience and expertise, to critically analyse and evaluate preventive measures. The goal of the project management module is to put participants in a position to be able to plan, implement and evaluate projects in a systematic and transparent manner. Project monitoring, the fourth and final module, deals primarily will allowing participants to apply (transfer) the imparted skills practically (i.e. criminology, crime prevention and project management).

After they have completed the Beccaria Qualification Programme, the participants should be capable of the following:

- Developing preventive measures, making use of the latest scientific insights and data,
- Critically assessing expert information (articles, police crime statistics, research results),
- Evaluating the effectiveness of preventive measures (carrying out a before-and-after comparison, knowledge of qualitative and quantitative procedures),
- Leading and moderating prevention and working groups,
- Running projects (project management, public relations, networking, etc.), including planning and organisation of personnel, financial and in-kind resources, as well as fundraising.

Because the qualification programme is subject to systematic further development, feedback includes a written questionnaire for participants at the end of each module. Participants evaluate the qualification programme at three different levels: firstly, the

lecturer level (expertise/didactic skills); secondly, the module level (content); and thirdly, the level of framework conditions.

2.2.3 Side effects

In addition to imparting knowledge and skills, the qualification programme has other effects as well. Exchange among expert practitioners from a variety of fields is extremely valuable. Participants take the opportunity during the breaks and in the evenings to explore the "bigger picture" and debate issues arising in other professions, as well as to build networks. The qualification programme creates a network of contacts for its participants. Team work and expert exchange among the institutions involved from a range of disciplines continue after the training is over.

2.2.4 Perspectives

The visions of the Beccaria Programme include:

- Establishing a Masters' course of study in crime prevention at a prestigious European university.
- Implementing a European qualification programme in the form of distance or blended learning.
- Holding an international summer school.

The concept for a Masters' course of study in Crime Prevention has already been developed. The first step has been taken: the course of study is due to commence at a Lower Saxony College of Applied Sciences in 2010. The second step – the search for a prestigious, international university – is still under way. .

2.3 Beccaria: Knowledge transfer in crime prevention (2008-2011)

The background for the third Beccaria Project, currently underway, is the wealth of crime-prevention knowledge available to us in Europe. However, there are deficits in how we make available, bundle and assess this knowledge, both in terms of professional knowledge and information management. Furthermore, there is insufficient transfer of knowledge in the field of crime prevention. The goal of the

current project is to enhance the availability of the knowledge we already have. The focus here is on identification, structuring, systematic gathering, processing, exchange, transfer, imparting and harnessing evidence-based knowledge within the field of European crime prevention.
The planned catalogue of measures includes:

1. Developing an electronic Beccaria portal,
2. Establishing an electronic platform for collecting, evaluating and portraying of knowledge secured internationally within the field of crime prevention (toolbox),
3. Implementing advanced training (qualification programme and Master's in Crime Prevention),
4. Holding an expert symposium.

This project combines relevant information with the instruments of knowledge-based European crime prevention (network of knowledge). Like the previous projects, all instruments are embedded within an overall strategy of quality-oriented and evidence-based crime prevention. The already-established website www.beccaria.de as well as the now newly developed English-language website www.beccaria-portal.org serve as the central platforms. Throughout Europe, the web-based portal guarantees effective access to the necessary building blocks for quality and action. In this way, knowledge on crime prevention can be both accessed and enriched internationally by institutions, experts and practitioners. By doing this, existing potential can be utilised, networked and passed on throughout the world, which ultimately results in more effective crime prevention.

2.4 Conclusion

Quality assurance and enhancement in crime prevention require:

1. Quality-cognisant thought and action – the development of a culture of evaluation
2. Systematic procedures – a focus on quality criteria (e.g. to the Beccaria standards)
3. An interdisciplinary approach
4. Marketing
5. Networking

6. Sustainability and
7. Professionalism through qualification.

In addition to all of the numerous conditional factors (such as basic understanding, attitude, openness and self-criticism, clarity about professional competence, good cooperation, networking competence, interdisciplinary cooperation, transparency), effective prevention work above all requires expertise in the field. One possible path toward more professionalism is the Beccaria Qualification Programme described above. Advanced training is worth it! Or, to quote Benjamin Franklin, “an investment in knowledge always pays the best interest.”

The programme’s namesake Beccaria also started with a vision. The following sentence adorns the title page of his famous work: “In intricate matters, one should not expect to sow and harvest at once; but must prepare and wait so that things mature by degrees.”

Literature

Coester, M. & Marks, E. & Meyer, A. (Eds.): Qualification in Crime Prevention - Status Report from various European Countries, Mönchengladbach 2008

Ekblom, P. (2002): European Crime Prevention Network – towards a logic model and mission statement. Vision of 1 July 2002, p. 11

Marks, E. & Meyer, A. & Linssen, R. (Eds.): Quality in Crime Prevention, Hannover 2005

Steffen, W. (2002): forum kriminalpraevention, volume 5, p. 15 et seq.

United Nations (2002): Excerpt of Resolution 2002/13. Action to promote effective crime prevention. New York

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Ensuring that fantasies are not turned into reality: Prevention of child sexual abuse and child pornography consumption in the *Dunkelfeld*

"*Dunkelfeld*": Offences that go Undetected

According to police crime statistics, in recent years some 15,000 cases of sexual abuse of children were reported annually to the German authorities (and approx. 3,000 offenders were convicted). There is, however, general agreement that those incidents recorded in police crime statistics – i.e. the number of *reported cases* – merely represent the tip of the iceberg and that the number of *undetected cases* is significantly higher. This is verified by the results of representative surveys within the general public in Germany (Wetzels 1997), according to which it can be assumed that approx. 60,000 child sexual abuse offences are committed every year. The majority of actual incidences involving the sexual abuse of children is therefore never reported to the police, is thus not registered by the judiciary and criminal prosecution authorities, and as a consequence is not included in any crime statistics.*

This is presumably also the case concerning the use, circulation or possession of child pornography, which mostly remain undetected (between approx. 500 and 2,300 convictions per year in Germany; see www.bka.de), although it must be assumed that the circulation of child pornographic material via the internet has increased dramatically in recent years (up to 450,000 hits per day on child pornography websites; currently approx. five million images in circulation, and several tens of thousands of new images depicting child sexual abuse are added each week – see reports published by the Internet Watch Foundation: www.iwf.org.uk).

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* In German the term *Dunkelfeld* (literally 'dark field') is used to denote all those incidences that remain undetected and are therefore not included in any official statistics; those cases that are reported to the authorities are called the *Hellfeld* (literally the 'light field') [translator's note]

This may be influenced by the fact that there is easy internet access, even for those with minimal computer skills. Furthermore there seems to be a connection between child pornography consumption and child sexual abuse: A study by Bourke & Hernandez (2009) reveals, that 84,5 % of convicted (and therefore incarcerated) child pornography users had previously been sentenced for hands-on abuses (CSA).

Currently, however, society is politically and financially mainly focussing on offenders of *reported cases*, which is why they are not only punished but secondary preventive interventions are also made available to them. Clinical experience has shown that convicted sex offenders are less open to therapeutic measures, because they often hide their inner life even from the therapist for fear of legal disadvantages.

For that reason, it appears sensible to provide additional *primary preventive measures* that offer therapeutic support in controlling sexual impulses before a sexual offence is committed or child pornography is used. However, this presupposes that potential offenders or users are aware of their problem and take personal responsibility for their actions.

This is the case when a person suffers *psychological distress*, often due to a disorder of sexual preference (such as pedophilia).Therefore *secondary prevention for undetected offenders* (“Dunkelfeld”) does make sense for this target group when sex offenders against children or users of child pornography not registered by the authorities seek help voluntarily. Self-motivation is the most important condition for a change in behaviour.

Pedophilia

When it comes to prognosis for and treatment of sex offenders it is most important to ascertain the underlying problem that led to child sexual abuse or to the use of child pornographic material.

60 % of all men detained for sexual abuse of children cannot be diagnosed as having a preference disorder in the sense of pedophilia. Rather, most offences are committed as a substitute activity for sexual interaction with desired adult partners

who are not available for various reasons (e.g. a personality disorder or low intelligence level). By contrast, 40% of men sentenced for child sexual abuse fulfil the diagnostic criteria for pedophilia (see Beier 1998), which is defined as *sexual responsiveness to the prepubescent childlike body*. This can represent all (so-called exclusive type) or part (so-called non-exclusive type) of this particular person's sexual experience (see APA 2000). In the latter case, the offender is not solely sexually responsive to the body of a child but also to other body patterns, for instance those of adults.

Generally speaking, sexual disposition manifests at a young age as part of what is known as sexual preference structure and remains the same for the rest of a person's life, i.e. *cannot be changed thereafter* (Beier et al. 2005). For individuals with a pedophilic disposition this meansthat since their puberty they have been living with sexual fantasies in which the image of a child's body increases arousal. As a result, those affected have to keep the oncoming desire to act out their sexual fantasies in check on a daily basis.

It is important to be aware of the fact that no-one can "choose" their own sexual preference structure – it is a matter of "*fate not choice*" – which is why it would also be wrong to pass moral judgement on it. That is only permitted – and then by all means - when sexual fantasies are turned into reality on a behavioural level damaging the individuality and integrity of others (in the case of pedophilia, children).

Regarding child sexual abuse *Figure 1* shows that only a certain amount of the offences can be attributed to offenders with a pedophilic disposition, whereas many pedophilic men are able to restrict their sexual contact with children exclusively to the level of fantasy (so called *potential offenders).* Others, in turn, have already translated their impulses into action, but are not known to the judicial authorities *(real undetected perpetrators)*.

Nevertheless, it must be assumed that those with a sexual preference for children are at greater risk of repeatedly committing acts of child sexual abuse (Hanson & Morton-Bourgon, 2005). For example, the rate of recidivism in the case of pedophilically

inclined offenders has been shown to be between 50 and 80%, whilst only 10 to 30% of offenders with other motivations re-offended (see Beier 1998).

As *Figure 2* shows, a different picture emerges for child pornography users as for those who commit child sexual abuse: The proportion of men with a *pedophilic inclination (i.e. sexual responsiveness to the body scheme of children)* of the total group of users is much higher, not least because men with pedophilia feel especially sexually attracted to images of children and are thus at greater risk of regularly viewing, downloading or collecting child pornography (Seto et al. 2006). This also corresponds with the current state of research, according to which every person feels sexually attracted to that kind of pornographic material that matches his or her sexual fantasies.

These connections between sexual preference and sexual behaviour are all the more worrying considering first epidemiological data, stating that the prevalence of a pedophilic inclination is approximately 1% of the male population, whereas it is rare among women (Beier et al. 2005; Ahlers et al. 2009). In comparison: 1% is the prevalence of Parkinson's disease in the German male population.

However, while many people know someone who is suffering from Parkinson's disease, only few will be consciously aware of knowing a pedophile person: Although it is also classified as a chronic illness, pedophilia cannot be (visibly) identified and those affected do not admit to it for fear of social discrimination; not even when the pedophilic impulses have previously remained at the level of fantasy and the person affected wants to try hard to continue keeping his behaviour under control in the future.

In conclusion, men with a pedophilic inclination bear particular responsibility that their disposition, for which they cannot be held responsible, does not lead to any acts for which they must be held responsible. However, since sexual fantasies, as the expression of a sexual disposition, cannot be influenced, they must control their general behaviour towards children throughout their entire life. *Those affected are allowed to imagine everything they want to but are definitely not allowed to act out anything.*

Men with a pedophilic inclination must therefore be regarded as the *most important target group for primary prevention* among undetected cases of child sexual abuse and child pornography consumption.[1]

The "Prevention Project Dunkelfeld" (PPD)

The first primary prevention treatment for potential offenders and real undetected offenders was set up in 2004 within the framework of the research project "Prevention of Child Sexual Abuse in the Dunkelfeld" at the *Institute of Sexology and Sexual Medicine* at the Charité University Clinic in Berlin. The project was initially funded by the *Volkswagen Foundation* and since 2008 also – on the particular initiative of the former Federal Ministry of Justice – from federal funds. It was also supported by the child protection organisation *Hänsel + Gretel Foundation*, as well as by the international media group *scholz & friends*.

Self-motivated pedophiles (target group) were able to be successfully reached by a media campaign offering the possibility of undergoing a diagnostic procedure as well as receiving qualified advice and treatment as part of the PPD - *free of charge and subject to medical confidentiality* (see Fig. 3).

When designing the advert and PR strategy the expected psychological strain on pedophilic men was taken into account, communicating the following messages:

(1) Empathy for the particular situation of the participants
(2) No discrimination against anyone on account of their sexual preference,
(3) Allaying fears that those who take part in the project will suffer juridical consequences,
(4) Confidentiality and anonymity regarding all collected data, and

[1] As well as pedophilia there is also hebephilia, which is defined as sexual responsiveness to the adolescent body, i.e. peripubertal developmental age. This is a separate, diagnosable sexual preference disorder that cannot be coded according to the International Classification Systems of the World Health Organization (WHO 1993) or the American Psychiatry Association (APA 2000). However, it has an important role to play in clinical work and in the PPD, because the onset of puberty is well below 14 for both sexes and thus begins in minority. Experts also tend to call for a separate classification of this disorder of sexual preference (see Blanchard et al. 2008), which is actually characteristic of one group of patients in accordance with the diagnostics applied in the PPD. But since the same in principle applies as for men with a pedophilic disposition, it was decided not to make separate reference to this group in the text.

(5) No augmentation of feeling of guilt an shame by relaying: "You are not to blame for your sexual fantasies, but you are responsible for your behaviour. Help is available! Don't become an offender!“

The Procedure

Men in the target group addressed and members of their families can contact the Institute of Sexual Medicine directly and anonymously by telephone or email. Once contact has been made a telephone interview is conducted, in the course of which their specific problem can be determined, information provided and – if requested – an appointment made for a detailed assessment.

Anyone who is interested in starting treatment must then undergo the diagnostic procedure, which comprises a structured, sexological clinical interview as well as a number of questionnaires. The evaluation of the questionnaires forms the basis for a concluding survey of results, the focus of which is on examining the a priori defined inclusion criteria (e.g. manifest pedophilia) and exclusion criteria (e.g. acute psychotic episode, organic brain damage, untreated substance abuse, cases already reported to the police) for participation in the programme.

Along with decoding sexual preference structure, the initial diagnosis aims at getting an insight into the individual's motivation for starting treatment and to establish the preconditions for an evaluation of the treatment results.

Legal Framework Conditions

In Germany, all those working in community-based treatment programmes are subject to the requirement of confidentiality (section 203 of the Criminal Code: "Violation of private secrets" – imprisonment for not more than one year or a fine), which also includes information regarding sexual abuse (the only explicit exception is the treatment of previously convicted offenders in the context of so-called supervision of conduct, section 68a (8) of the Criminal Code).

The requirement of confidentiality also applies to possible future child sexual abuse, since it is not listed in section 138 of the Criminal Code ("Failure to report planned crimes") – in contrast to, among others, serious trafficking in human beings, murder, manslaughter or other crimes against personal liberty (in which case the failure to report would constitute a punishable offence).

Although, making reference to section 34 of the Criminal Code ("Necessity as justification"), medical confidentiality can be broken and the case reported to the police if the therapist is convinced, in the context of a community-based treatment relationship, that a patient will commit a sex offence. He can then invoke the fact that, upon weighing up the conflicting interests, the protected interest that is in danger (abuse of a child) substantially outweighs the one interfered with (the requirement of confidentiality). Nevertheless, under the Criminal Code this only applies to the extent that reporting the matter "is a proportionate means to avert the danger". That is questionable, since the person reported will deny any motivation whatsoever to commit the offence when official investigations are instituted and permanent deprivation of liberty cannot be justified on this basis. In addition, one must remember in the context of the PPD that these men are taking part in the project because they want to prevent anything happening – a conflict could only arise if different assessments are made of the risk that the impulse can no longer be controlled and the participant does not act on the means of averting the danger recommended by the therapist. But even in such a case (that has not arisen to date), the participant would not reveal his inner life to the authorities if he were reported and he would no longer be accessible for interventions.

For that reason, the legal situation in Germany must be regarded as an *extremely favourable starting point for prevention work* in this field, because it enables a protective framework, which leads to potential offenders or real undetected offenders being prepared to accept help in the first place. Since, however, these offenders certainly do exist and the probability that they would commit their first or further sexual offences or use child pornography is much greater if they did not accept help, it is definitely better to have the opportunity to begin an intervention than not to gain any access to this target group at all.

With regard to prevention work, Germany is in a *privileged position compared to other countries*, since in other countries therapists working in community projects are subject to the requirement of disclosure if they become aware of acts of child sexual abuse or the use of child pornography, or they have reason for suspecting that their patient will commit such acts. An ethical debate on this matter would raise the question of whether utilitarian principles (choice of the lesser evil) in view of the benefit achieved (being able to prevent offences against sexual self-determination) permit a procedure obligated more to protecting children than a strictly normative orientation (duty to report cases on account of the interest being in danger), which is also linked to the restriction of civil liberties (lifting of requirement of confidentiality).

The Treatment Programme

Each individual stage of the PPD treatment approach has been defined. A manual formally serves as a guide to the treatment contents, processes and objectives, whose *primary objective is to increase behaviour control*.

The first step is the responsible integration of the erotic preference for prepubescent body schemes into one's own self-understanding. This is absolutely necessary for being prepared to face situations leading to contact with prepubescent children of the preferred age. In order to increase the probability that fantasies will not become established on the behavioural level and to enable permanent behaviour control, professional help is needed to establish on a single-case-basis, how high the risk is that the impulse will no longer be controlled and by which methods that risk could be reduced.

The first difficulties concerning behaviour control arises at the stage where sexual impulses and fantasies associated with this particular sexual preference become established when children are sought out in a more or less reflected manner. This can mean seeking contact with underage children at real locations (school, kindergarten, sports clubs, concerts); the level of control varies depending on the respective social situation. For instance, sexual impulses can be directed in a "socially controlled" manner to situations in which those affected will meet children in such a socially controlled context (e.g. primary school teacher). The less controlled

the content or social contexts, the more risky behaviour is evidenced, and consequently the risk that the impulse can no longer be kept in check increases. It is particularly easy to evade social control in the case of child pornography use (PC in a room that can be locked).

Generally speaking, the treatment is based on three pillars that represent the bio-psycho-social nature of the therapy: *sexological interventions* help participants to accept their sexual disposition and to integrate it into their self-concept; *cognitive behavioural therapy treatment methods* improve participants' self-regulation strategies by changing attitudes toward sexuality, enabling empathic and social competence, the ability of coping successfully with emotions and stress, as well as conflict-resolution capability in relationships; with the aid of *pharmacotherapy* (serotonin reuptake inhibitors; antiandrogens (cyproteronacetate or LHRH analogs), additional sexual impulses (such as fantasies) can be reduced, as a result of which those affected have suppressed sexual responses and are less likely to seek out children for sexually motivated reasons.

The indicator required for a differential diagnosis for various groups of medications to reduce sexual impulses is in particular dependent on the extent to which the affected person's actual control at behavioural level (always also including the therapist's perspective!) is possibly at risk, since these represent the primary goal of the treatment efforts (see Fig. 4).

Integrating close friends and relatives combined with the mentioned psychosocial therapeutic processes has a further inhibitory effect on problematic sexually motivated behaviour, so that a combination of all treatment approaches can ensure that the sexual impulses resulting from the sexual preference remain at the level of fantasy and are stopped from ever moving to the level of behaviour (in the case of *potential offenders*) or repeating this behaviour in the future (in the case of *real undetected offenders*).

First Results

By June 1st 2009, 936 men had contacted the Institute, and 408 had completed the diagnostic procedure. The men came from all levels of society, were aware of their sexual disposition averagely since the age of 22 and were aged averagely 39 when they joined the project . However, more than half had already tried to get therapeutic help elsewhere. 48 % of those interviewed had travelled more than 100 km to take part in the study. Most showed signs of a pedophilic preference disorder, whereby many displayed other psychological stress symptoms as well (in particular depressiveness and anxiety), which can be rated as an expression of the co-morbidity, often present (see Beier et al. 2009).

In late March 2009, 41 patients had completed the treatment programme, 24 were still undergoing treatment and 10 were waiting for a place on the programme. 98 were unable to take up the place offered them on the programme (mostly because they were not from Berlin or the neighbourhood and did not feel able to travel to the treatment centre in Berlin once a week over a period of one year). As for the 38 drop-outs, these often quoted inconvenience (too far to travel to treatment centre).

Regarding the 41 participants who completed the treatment programme, a significant reduction in cognitive distortion as well as a significant increase in victim empathy was noted, and therefore a positive impact on known risk factors for the commission of child sexual abuse (see Hanson & Morton-Bourgon 2005).

Three cases of sexual abuse occurred over the treatment period, whereby the expected value, based on the average number of cases of abuse per year per participant over a lifetime, was nearly 20 times that figure: an average value had been established prior to the start of the treatment in the form of an offence index of 2.1 offences per year per participant (for the group of real undetected offenders).

Around one fifth of the participants treated in the PPD or who were still undergoing treatment decided to take antiandrogens in order to increase their impulse control through supplementary medication.

In comparison to the other patients, these were significantly more likely to perceive risks and had committed sexual offences more often in the six months prior to the start of treatment.

The "Prevention Project on Child Pornography Offences”

In 2009 the “Prevention Project Dunkelfeld” (PPD) was extended to include potential and real users of child pornography (who were, however, not known to the judicial authorities). This new project also receives funding from the federal budget – mainly from the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth – and is based on the findings of the PPD, according to which half of potential offenders were already child pornography users and tended to be less aware of their problem in this regard. In addition, there was one group that had both used child pornography and had committed sexual offences and another group that only admitted to the latter in the past and denied that they were child pornography users.

As a further analysis of these groups showed, there is a clear link between child pornography use/child sexual abuse and age: the youngest group had neither consumed child pornography nor previously abused a child. With increasing age of the participants the probability that they had committed one (or both) of these offences increased.

Basically, child pornographic material depicts exactly those types of sexual offences that the PPD aims to prevent. There is a reticence to speak of pornography, as this label plays the matter down – in actual fact, child pornography (images and videos) documents acts involving sexual abuse (sexual acts on, by or in the presence of children). The harm inflicted on victims is increased on account of the fact that it is hardly ever possible to completely remove the images from the web (see Taylor and Quayle 2003).

In addition, clinical observation shows reason to suspect that the threshold of a direct offence could be lower after looking at such images/videos. It is immediately evident that using such material creates the incentive to post more images on the internet.

This suggests that contact should, if possible, be established with men with a pedophilic disposition before they use child pornographic material, to which they are predestined on account of their preference disorder. The idea behind the new project is thus to make these interconnections clear to those affected and to members of their families and to reach out to them in the medium they are using to search for the relevant images, namely the internet. The media campaign designed in this context therefore attempts to reach the target group via TV and internet banner adverts. The basic message is still the same, namely that no-one is to blame for their sexual desires, only when their fantasies lead them to commit acts that are harmful to others. This, without a doubt, applies to child pornography, because it presupposes and supports acts of abuse and leads to further such cases of abuse (see Fig. 5).

The message is: "Child pornography is sexual abuse. You are not to blame for your sexual responsiveness to child pornography, but you are responsible for your behaviour, that is whether you *click* on it. Help is available! Don't become an offender. Not even on the web!" (see www.kein-täter-werden.de).

As many men with a pedophilic disposition are not socially isolated, but are part of various social networks, and have a family or partner, the new project also aims to provide general information on the problem of child pornography and on the special connection to users who on account of their (pedophilic) preference disorder need to resist the impulse to use, store, download, collect or swap these images.

Where possible, those people closest to participants should also be involved in consultations and treatment, as many feel left alone with their questions and fears in their search for answers and support. Providing targeted information makes it easier for them to learn to understand what is a new situation for them and thereby to be able to talk openly to their partner about it. The intention is also, with the support of relatives, possibly to promote the user's awareness of his problem in order to motivate him to take part in treatment measures.

Outlook

The Institute for Sexology and Sexual Medicine at the Charité in Berlin started working on the PPD in 2004. Experience gained since then shows that pedophiles and hebephiles are prepared to take part in therapeutic prevention measures on their own motivation if they themselves want to prevent ever becoming a child sexual abuser (in the case of potential offenders) or re-abusing (in the case of real undetected offenders).

The one-year treatment programme can be conducted in a group or in a one-to-one setting, and comprises special sexological and cognitive-behavioural aspects as well as medical interventions, whose primary objective is the complete control of behaviour, always acknowledging that the pedophilic inclination itself cannot be changed. That is why it would be wrong to pass moral judgement on the fantasies associated with this disposition. Only behaviour, i.e. definite acts, are to be condemned (and should be prevented), and this can involve both direct child sexual abuse as well as child pornography use. For that reason the project was extended in 2009 to include the target group of potential or real users of child pornography, because from a sexological point of view it is highly evident that the consumption of child pornography is, in most cases, an indicator for a pedophilic preference disorder.

The original slogan used in the media campaign – "Don't become an offender" – was extended to include "Not even online" with the intention of posting the availability of help on the internet.

Nevertheless, on account of the fact that a pedophilic preference structure is unchangeable it must be seen as a chronic illness, which will last lifelong. The consequence is that programmes for the chronically ill need to be established within a frame of meaningful prevention work. That is why those who have completed the treatment programme also need to have a point of contact (in the sense of a community-based centre for sexual medicine) with access to the necessary treatment options (including medication to reduce sexual impulses) so that help can be provided immediately in situations in which those affected are at risk of committing an offence. The prevention project at the Charité in Berlin has been able to show that in

the Dunkelfeld it is *possible to prevent many things but not everything, where in the past nothing was done at all*.

Literature

Ahlers, Ch., Schaefer, G.A., Mundt, I. A., Roll, S., Englert, H., Willich, S., Beier, K.M (2009). How unusual are the Contents of Paraphilias – Prevalence of Paraphilia-Associated Sexual Arousal Patterns (PASAPs) in a Community–based Sample of Men. Journal of Sexual Medicine (accepted for publication).

American Psychiatric Association. 2000. Diagnostic and Statistical Manual of Mental Disorders (4th edition, text revision). Washington, DC: American Psychiatric Association.

Beier, K. M., Bosinski, H. A. G., Loewit, K. (2005). Sexualmedizin, Grundlagen und Praxis. 2nd ed. Elsevier: München 2005

Beier, K.M., Neutze, J., Mundt, I. A., Ahlers, Ch., Goecker, D., Konrad, A., Schaefer, G. A. (2009). Encouraging self-identified pedophiles and hebephiles to seek professional help: First results of the Berlin Prevention Project Dunkelfeld (PPD). Child Abuse & Neglect.

Blanchard, R., Lykens, A.D., Wherret, D., Kuban, M. E, Cantor, J.M., Blak, T., Dickey, R., Klassen, P. (2008). Pedophilia, Hebephilia, and the DSM-V. Archives of Sexual Behavior, online version, DO1 10.10007/s10508-008-9399-9.

Bourke, M.L., & Hernandez, A.E. (2009). The 'Buttner Study' redux: A report of the incidence of hands-on child victimization by child pornography offenders. Journal of Family Violence, 24, 183–191.

Federal Ministry of the Interior (2008). Die Kriminalität in der Bundesrepublik Deutschland. Polizeiliche Kriminalstatistik für das Jahr 2007. http://www.bka.de.pdf.

Hanson, R. K., & Morton-Bourgon, K. (2005). The characteristics of persistent sexual offenders: a meta-analysis of recidivism studies. Journal of Consulting and Clinical Psychology, 6, 1154–1163.

Neutze, J., Seto, M, Schaefer, G. A., Beier, K. M. (2009). Predictors Of Child Pornography Offenses And Child Sexual Abuse In A Community Sample Of Pedophiles And Hebephiles. Sexual Abuse: A Journal of Research and Treatment (accepted for publication).

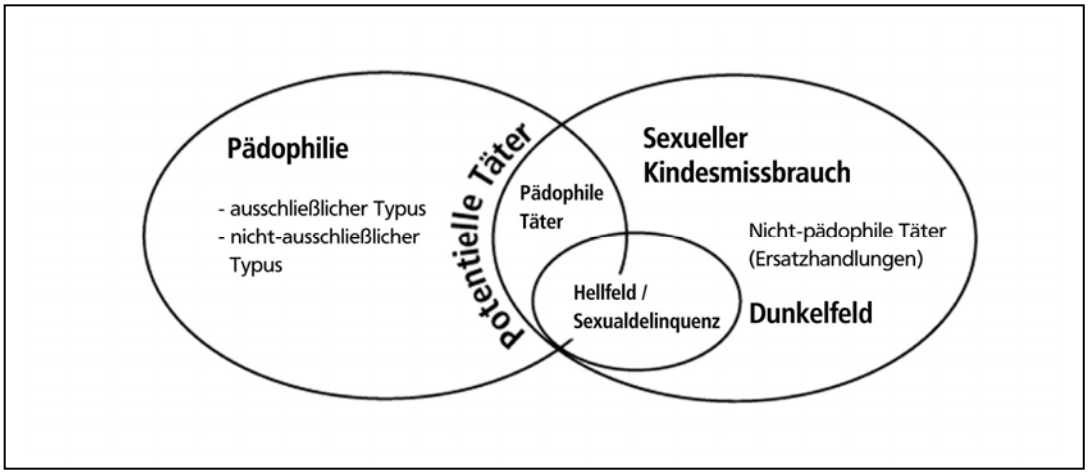
Seto, M. C., Cantor, J. M., & Blanchard, R. (2006). Child pornography offenses are a valid diagnostic indicator of pedophilia. Journal of Abnormal Child Psychology, 115, 610–615.

Taylor, M., Quayle, E. (2003). Child Pornography: An Internet Crime. New York: Brunner-Routledge.

Wetzels P. (1997). Prävalenz sexuellen Kindesmissbrauch. Sexuologie 4 (2), 89–107.

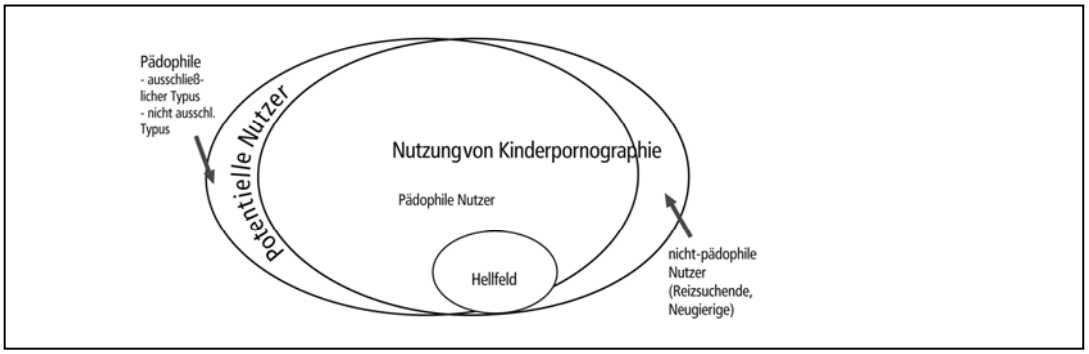
WHO (1993): Internationale Klassifikation psychischer Störungen: ICD-10, Kapitel V (F): Klinisch-diagnostische Leitlinien. Bern: Huber.

Abb. 1



Paedophilia ≠ sexual abuse of children. The proportion of paedophile offenders in the overall group of men who engage in sexual abuse of children is less than 50 per cent.

Abb. 2

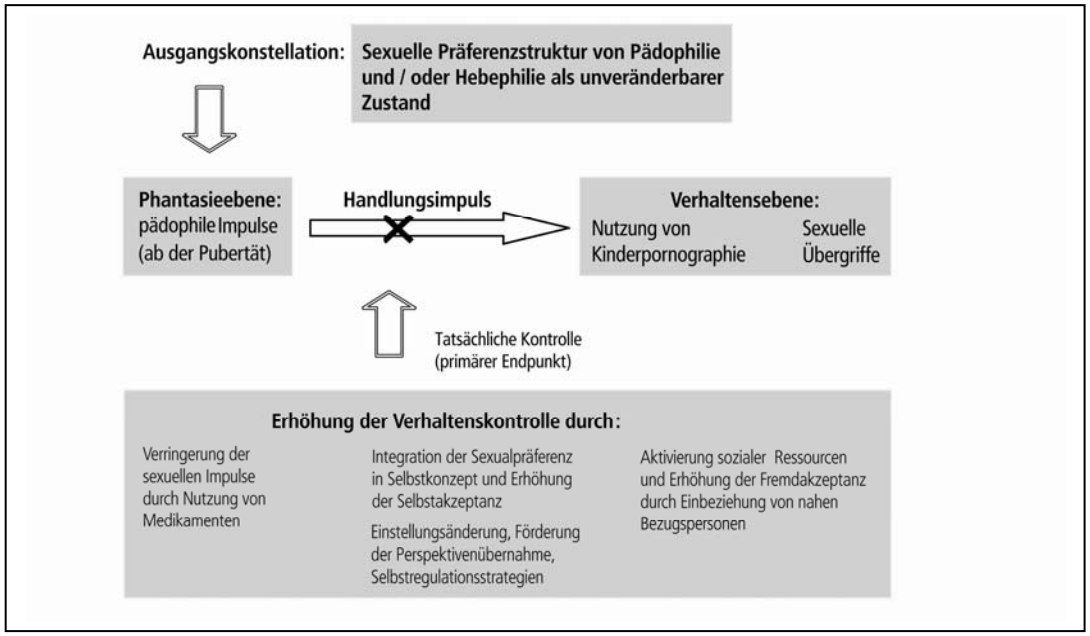


Connection between paedophilia and the use of child pornography. The proportion of paedophile offenders in the overall group of men who use child pornography is close to 100 per cent.

Abb. 3

Poster of the media campaign through which problem-conscious potential offenders who are willing to seek professional help and individuals who have already committed sexual offences against children but are not (yet) known to the justice system have been attracted to take part in the Dunkelfeld Prevention Project. Concept: Scholz & Friends

Abb. 4



Sexual medicine intervention model to prevent the sexual abuse of children and the use of child pornography

Abb. 5

Still shot from a TV commercial by the media campaign through which problem-conscious, potential offenders who are willing to seek professional help and child pornography users who are not (yet) known to the justice system are to be attracted to take part in the "Prevention Project Child Pornography".
Concept: Scholz & Friends

Ambassador Dr Georg Birgelen

Commissioner for Global Issues at the Federal Foreign Office

Prevention – an effective element in fighting terrorism

The attacks of 11 September 2001 in the USA and those that followed in many parts of the world painfully highlighted that the security of a state and its citizens is coming under increasing cross-border threat from non-state actors. Internal and external security are therefore interconnected more than ever before. It has also been recognised that modern terrorism is a global threat which no country and no society can effectively counter on its own. The extent of peoples' willingness to resort to violence is further increased by the terrorists' logistical networking and cross-border approach. Thus, state action must be based on close bilateral, regional and international cooperation.

Prevention in particular plays an important role in effectively fighting international terrorism. What we mean by prevention here is a complex network of various packages of measures that are all united in their common objective of removing the basis for terrorism to spread and, in the longer term, for it to exist at all.

What is also important, however, is to strengthen the range of criminal law instruments to combat terrorism and to improve cooperation in criminal matters. Notable examples are the Council of Europe Convention on the Prevention of Terrorism of 16 May 2005 and the Council Framework Decision of 28 November 2008 amending the Framework Decision on combating terrorism. These two legislative instruments undertake to define offences that are committed in advance of terrorist acts of violence. Public provocation to commit a terrorist offence and recruitment and training for terrorism, for instance, are placed under threat of punishment. At the same time, these two legislative instruments demand that such acts be defined as criminal offences while respecting the principles of human rights, democracy and the rule of law.

In this connection, Germany has adapted its penal legislation for the protection of the state. German penal law introduced a new provision on 4 August 2009 which places under threat of punishment the preparation of serious acts of violent subversion. The preparatory acts punishable under this provision include training and being trained to commit a serious act of violent subversion. The provision thus implements the international rules contained in the Council of Europe Convention and the Framework Decision amending the Framework Decision on combating terrorism. It is now also punishable to prepare serious acts of violent subversion by producing, acquiring, transferring or stockpiling certain weapons and certain substances (e.g. viruses, noxious substances, radioactive substances and explosives) or special devices required to commit the prepared offence (e.g. detonators) and to acquire or stockpile essential items or “raw materials“ to produce these weapons, substances or devices. Finally, new offences were defined to prevent the dissemination of instructions on how to commit such acts of violence, e.g. via the internet.

The aim of prevention is not operational counterterrorism, but – as the former United Nations Secretary General, Kofi Annan, once put it – to dissuade disaffected groups from choosing terrorism as a tactic. People should not become susceptible to extremist ideologies, regardless of their source. If one wants to convince young people of the merits of a free, pluralistic society, for instance, one has to approach them and seek dialogue with them. People who are positive role models can be particularly persuasive for young people in this context. The Federal Ministry of Justice supports the anti-Nazi project “Störungsmelder on tour“, for example, which was launched in 2008 by well-known German television presenters. These presenters use their popularity in a targeted way, visiting schools to engage in a discussion on extremism with pupils. The objective of the Federal Government’s various programmes and projects is to develop a broad understanding of shared fundamental values, to promote respect for human dignity and to combat extremism in all its forms. For extremism is a breeding ground for terrorists who are willing to resort to violence. The aim is to promote democratic action, civic commitment, tolerance and openness to the world as well as to support parents and teachers in their educational work for tolerance and democracy. Strengthening the social and emotional competence of children and young people contributes to this. The approach is based on the belief that children and young people who are aware of

their own identity and have a stable feeling of self-esteem are less likely to be attracted by extremist ideas.

Ideologues always manage to come up with arguments that make acts of extremist or terrorist violence seem appropriate, not only with regard to achieving a particular objective, but even “right” and legitimate in a deeper, justifying sense. In pseudo-justifying such violent acts, heroising perpetrators or dehumanising a group of supposed “enemies”, such “intellectual supporters“ are very dangerous. This is also true when no explicit appeal is made to commit violent acts. Using emotional appeal certainly widens the group of people who are susceptible to extremist or terrorist recruitment by the relevant contact with interested ideologues. Only if the fight against terrorism is already taken up at this point, before extremist or terrorist groups form, is there any prospect at all of ever getting to the roots of the problem, namely radicalisation and recruitment. In this connection, the internet is becoming increasingly significant as a medium for the dissemination of extremist and radicalising material. Part of a prevention strategy involves identifying, monitoring and evaluating websites devoted to terrorist propaganda, extremist radicalisation or specific recruitment. This is an extremely difficult task on account of the huge technical progress from which the people who make such websites also benefit.

For the countries of the Western world, the threat of Islamic terrorism appeared at first to be a danger “from without”. However, since the attacks in Madrid and London at the latest, is has been clear that the threat also comes from people who are an integral part of “Western“ society. The threat takes on a new dimension in this “home-grown“ terrorism, confronting the security authorities with entirely new challenges.

What approaches is Germany taking for effective prevention?

The key in the medium to long term remains to deal with extremist ideologies intellectually and politically in a way that gets to the root of radicalisation processes. The aim is to remove factors that provide a breeding ground for radicalisation. In Germany, dealing with radical Islamism is **a task for the whole of society,** involving preventive elements. The focus is on the following strategic objectives:

- **removing the basis of legitimation for Islamist, extremist/terrorist acts;** justification patterns and concepts of people that evoke feelings of hatred or fear are rebutted and called into question by approaches involving tolerance and dialogue;
- **strengthening fundamental constitutional values** in the Muslim community through various conferences, educational measures and awareness campaigns;
- **integrating Muslims** and promoting social participation.

In the long term, undermining Islamist propaganda that tries to present Muslims collectively as being merely victims of the "West" requires the **involvement** of the groups and individuals who are potential targets of radicalisation efforts, particularly **Muslims**. The German Islam Conference (DIK) is an important step in this direction. The establishment of the DIK institutionalised the dialogue process in Germany for the first time. The DIK's objectives are as follows:

- to improve the religious and social integration of the Muslim population in Germany to prevent radicalisation and extremist Islamism;
- to counter the exclusion of Muslims in Germany.

Within the context of the DIK, potential radicalisation problems are discussed in dialogue with Muslims in the round table on security and Islamism (e.g. Islamic educational work, the internet as an Islamic means of communication, preventing crime locally etc.). The DIK thus supplements the existing dialogue fora of the security authorities with Muslim associations in which, among other things, decisions have been taken on confidence-building measures.

In addition, **international dialogue** is required to improve mutual understanding and respect. It can strengthen reformist forces, promote democratic and constitutional structures and reinforce civil society organisations. The impression should always be avoided here that the aim is the wholesale transfer of particular models. Rather, it is crucial to engage in an open dialogue with forces, including critical ones, that are willing to take part in such dialogue in order to develop adapted strategies for solutions.

Germany supports the relevant **strategic approach of the EU**, especially the Council's Strategy for Combating Radicalisation and Recruitment, which includes the following elements:

- to disrupt the activities of networks and individuals who draw people into terrorism (e.g. through efficiently monitoring the internet, preventing the abuse of religious institutions as extremist fora and measures under residence law);
- to ensure that mainstream opinion prevails over extremism (e.g. dialogue with Muslim associations, training imams in Europe, communications/media strategy to explain Western policy);
- to promote security, justice, democracy and opportunity for all (e.g. through integration policy within the EU, good governance abroad, human rights, democracy, education and economic prosperity).

The Federal Government also promotes the global prevention of terrorism through a large number of projects for constitutional development, strengthening civil society, deradicalisation and the implementation of legal instruments. In so doing, it works in close cooperation with the EU, the UN, the OSCE and various foundations.

Structural prevention is extremely important, but often receives too little attention. Many conflicts in developing countries involving violent non-state actors have socio-economic causes. Poverty, extremely unequal incomes, social, ethnic or religious discrimination, the uncontrolled spread of small arms and also droughts and environmental disasters in the wake of climate change foster the emergence of conflicts. If we wish to counteract these causes of conflicts effectively, we need to choose a correspondingly broad approach to prevention. Foreign and development policy and also military options should be combined to create flexible packages of measures. This is our purpose in promoting the rule of law and good governance by means including a wide range of projects, thereby having a positive influence on domestic developments. Strengthening civil society is also an important objective with a view to conflict prevention. Its aim is to create conditions that as far as possible prevent the emergence of violent non-state actors through radicalisation.

Most measures to prevent radicalisation and recruitment have only a long-term effect. They require the ongoing, sometimes considerable use of scarce material and staffing resources. Patience and persistence are required, also because socio-economic realities and the political situation often counteract the effectiveness of measures. Unfortunately, the success of preventive measures cannot be unambiguously measured. An assassin is visible, but a would-be assassin is not. One thing is clear, however. Doing nothing and merely limiting the fight against terrorism to a repressive treatment of the symptoms is no alternative because recovery has to start by addressing the causes.

Horst Viehmann

Retired *Ministerialrat*

Strategies for Violence Prevention within the German framework of Juvenile Criminal Law [1]

Contents:

[1] This text is an abbreviated and updated version of the article with the same title to be found in the *National Report on Strategies for Violence Prevention in Child and Youth Age Groups in Germany*, available on the German Youth Institute website.

1. The Challenge for the German Juvenile Justice System – and the Objective

Juvenile criminal law is preventively conceived law; its design purpose and its responsibility in practice are not to ensure that offenders are punished, but rather that those convicted should subsequently show themselves capable of living within the law. The aim is that following their first clash with the law they should not go on to commit further offences. The rationale and purpose amount to what is called “special prevention”: the future behaviour of the young persons concerned is supposed to be influenced for the better. They are supposed to gain an understanding of the harmful or reprehensible nature of their earlier conduct, thereby acquiring a degree of resistance to recidivism. And they are supposed to be put in a position enabling them to live from then on without re-offending. For most of the ubiquitous or episodic criminality on the part of young people, the clear warning suffices: this particular behaviour will not be tolerated, it is forbidden and will be punished (the technical term here is “norm clarification”). Insight, enablement to live an offence-free life, and norm clarification are – to put it in simple terms – the objectives of all reactions and interventions under juvenile penal law. There is admittedly also a repressive element, as a safeguard; but that is a provision for exceptional circumstances, and in terms of results is likewise aimed at subsequent good con-duct: detention in a young offenders institution follows on a serious offence – but here too due attention must be paid to the educational aspect.

Juvenile criminal law may be described as a body of law based on penal law and not only providing for both prevention in general and education in the specific individual case, but also – because judicial processes must respect the constitutional principle of proportionality – enforcing these outcomes in the individual case. This means that the law must refrain from punishing the offender in cases where an educational measure appears appropriate and sufficient for achievement of the object of intervention by the juvenile penal system: namely the future good conduct of the offender. Legally, juvenile criminal law rests on the Jugendgerichtsgesetz (Juvenile Courts Act). It takes its starting-point in the corpus of indictable offences recognised in general penal law and imports the constitutional and procedural safeguards required in a constitutional democracy, these appropriately modified for juvenile court use. To this extent, juvenile criminal law is penal law. However, the Juvenile Courts

Act proscribes the sanctions available under general penal law and instead offers courts a wide array of reactions and interventions appropriate to young persons, to be applied in response to potentially criminal behaviour on the part of minors aged 14 to 17, and also to provide solutions tailored to individual age and maturity for the age-group 18-20. To this extent, juvenile criminal law is also a body of law designed to educate and help. This is why it makes sense to describe it not as juvenile penal law but as juvenile criminal law. The latter does not set out to punish in the first place, but instead concerns itself with the study of juvenile criminality and furnishes the prosecuting bodies – the Jugendstaatsanwaltschaft (juvenile prosecution services) and Jugendgerichte (juvenile courts) – with norm-clarifying measures and a large number of ways to help and support a given young person, with a view to avoiding the commission of further offences.

This philosophy of juvenile criminal law applies to juvenile criminality generally and also to offences of violence against other individuals. Only when respect and acceptance of the right to life and to freedom from bodily injury can be communicated to young people in such a way that violence directed against others ceases to represent an alternative course of action will it become possible to limit the disposition to violence and the burden that violence imposes on society. The juvenile criminal law can and will play a part in bringing this about.

In the overall context of youth and violence, offender numbers are high; yet young offenders are far outnumbered by young victims. Most of these are victims of violence inflicted by young people, for the most part in places where they spend their leisure hours. But they also include victims of violence at the hands of adults, particularly within the family. Society needs accordingly to stop seeing young people exclusively as offenders, and be more prepared than hitherto to focus its attention on young people as victims. While this is not of central importance in juvenile criminal law, it does matter, in the context of reviewing options for sanctions, that those at the receiving end of juvenile violence are themselves in most cases juveniles.

2. The Importance of Violence as an Element within Juvenile Criminality

Violent acts within the context of juvenile criminality cover a broad range from a mild use of physical force in age-typical scuffles and fights all the way to the most heinous acts of violence such as different degrees of homicide. Offences of serious violence, i.e. Gewaltkriminalität in the German police terminology, including murder, manslaughter, robbery with violence or the threat of violence, and grievous bodily harm, are, on a quantitative measure, of fairly marginal significance. The role of juveniles in qualitatively serious acts of violence is generally overestimated: for example, it takes as little as the involvement of several young people in a fight – and this category covers almost two-thirds of all juvenile criminality involving violence – to qualify a bodily injury as a "grievous" bodily injury, regardless of the actual consequences of the injury inflicted. And yet the less serious offences involving bodily injury, in a similar way to shoplifting, are part of the everyday scene in juvenile criminality, which means they rank among the principal juvenile offences.

At the same time, social and political perceptions of juvenile violence overrate its extent, structure and gravity. It is often dramatised and sensationalised. This is the case both in the historical, traditional sense and in today's context. The Kriminologisches Forschungsinstitut Niedersachsen (Lower Saxony Criminological Research Institute) has reported survey findings indicating that those polled believed there had been a sharp rise in dangerous and serious criminality, whereas in fact some of the registered statistics indicate a considerably lower incidence.

It is true that the number of offences of violence recorded by the police, and the number of minors suspected of such offences, have both gone up. However, it may well be the case that this simply reflects increased inclination on the part of an over-sensitised public to report offences, given that over 90% of registered criminality is brought to police awareness by reports from the public. Thus a statistical increase does not necessarily reflect an actual increase on violence, as it may in large part result from a new coverage in police statistics of offences that formerly escaped registration. This trend has been reinforced by increased and successful police investigative activity.

In qualitative terms, too, the statistics falsify the picture appreciably. In compliance with the penal code's definition, they register bodily injury inflicted by persons acting together as "grievous bodily injury", irrespective of the injury's consequences. In thus highlighting one aggravating feature, they correspondingly fail to acknowledge the special nature of juvenile violence, which is preponderantly and – as an age-related phenomenon – typically committed not by individuals acting alone but by several acting together, and in many cases amounts to mere roughhouse behaviour without serious consequences. Minors also inflict serious bodily injuries, of course, but the incidence of such offences is relatively low. These emphatically do not represent typical juvenile violence, and on their own provide no warrant for making the juvenile criminal law more draconian generally, advocated time and again in knee-jerk response after reports of heinous one-off offences are published, generally in the red-top press.

3. The Role of the Media

Contributing to a symposium held at Cologne in 1999 on the theme of "Criminality and the Media", the Bielefeld criminologist Frehsee commented: "One of the most popular topics of recent years has been juvenile criminality, always generalised by characterisation of the young as disposed to violence, actually violent, dangerous, criminal. 'They nick things. They mug people. They kill.' – that kind of headline. The latest thing is child criminality. At this age, even more emphatically than for the 13 to 20 age-group, serious violent of violence are the rarest of extreme cases. That fact does not get in the way of headline-writing like 'Little Monsters', 'Children at War', 'Kids who Know no Mercy – Germany Swamped in Tide of Mindless Violence' – effectively characterising the entire generation of our youngest people."

The media exert decisive influence on social and political perceptions of youth criminality. They contribute in large measure to exaggerated perceptions of the incidence of violent crime. They regularly report on spectacular and heinous acts of violence and create the impression that youth criminality is made up of serious acts of violence. In the public perception this reporting leaves behind the erroneous impression of a widespread and serious crime problem for which an increasingly criminal youth generation is responsible.

This impression is reinforced by the regular annual coverage of the police criminal statistics. The rise in figures for youth crime, which may derive in part from increased police vigilance, and most particularly from increased readiness on the part of the public to register complaints – and thus does not reflect a true rise – is often used as a pretext for reports of a “deeply disturbing upward trend in youth criminality”. Even where registered offences fall, as has been the case in some categories of offence since 1997 and for offences involving violence since 2001, this false impression is kept going by the prominence given to extreme brutality in specific individual cases.

Current reporting of violence occurring at Hauptschulen (secondary schools [without university stream]) is likewise heavily dramatised. Many of those students are socially disadvantaged and without prospects. They do not pose unreasonable demands, but they do aspire to a school-leaving certificate, vocational training, and a job, and to starting a family. They have been unsettled and left fearful by the antics of the media, and the great majority of them want to get on with their studies in peace. However, they are not in a position to construct a normal life for themselves, and it is evident that there have been massive failures of educational and youth policy.

The media nevertheless continue to generate a perception of menacing juvenile criminality. They keep public fears alive, particularly amongst older people. The reporting also affects the course of justice. The judiciary and the prosecuting authorities, like the general public, draw their knowledge of contemporary events from the mass media. The reporting influences their perceptions and leaves its stamp on their mindset. An appreciable number feel under public and political pressure to take a stand, seeking to halt the allegedly sinister trend. This mechanism is familiar to criminology as a self-amplifying publicity-politics circle. It acts as a burden on the state and on society, leading to unwarranted demands for greater rigour in legislation and severer punishment. Such changes are expensive, and the supposed preventive effect will not materialise. In the most recent period, judicial practice seems to be leaning more frequently towards custodial sentences and also longer sentences, for juveniles as well as for adults, in the (fond) hope of countering this development. Many of the crime policy proposals put forward recently and very recently have reflected this mechanism and its populist appeal. In marked contrast, the findings of

scientific research and fieldwork on the causes of juvenile criminality and on meaningful responses to the problem are accorded scant attention and seldom acted upon.

4. The Legal Framework – The German Juvenile Courts Act

4.1 Formal Legal Options for Reaction

As noted above, juvenile criminality is ubiquitous and episodic in nature. Extremely widespread during the years of minority, it disappears of its own accord as the phase of juvenile development is left behind. For the most part, juvenile criminality is also of a trivial nature. This is essentially true also of juvenile delinquency involving violence. Reactions provided for in the Act accordingly have in their forefront the strategy of quick reaction with norm-clarifying measures which enable the state prosecution service to desist from further proceedings, or a magistrate to stop proceedings. Available non-custodial measures likewise play a part in enabling the harmful side-effects of custodial interventions to be avoided.

This strategy of avoidance of typical judicially imposed sanctions and of deployment of relatively undamaging, supportive and stabilising reactions in dealing with the juvenile delinquent requires a specific infrastructure which cannot be provided by the judicial system. That is the task of the child and youth services. At the very outset of a case, it must seek to avoid repressive judicial solutions (for instance, detention) by offering appropriate services of its own (see German Social Code Book VIII Section 52 Subsection 2). Once the case is under way, the child and youth services similarly has the obligation to make non-custodial reaction options available, in this way helping to reinforce the modern trend away from punishment in favour of social enquiry. All this requires effective cooperation between the judicial authorities and the child and youth services. Such cooperation is achievable given better training and professional development and appropriate communication between the authorities and individuals involved. This modern approach to dealing with young offenders requires a robust infrastructure of institutions offering and delivering non-custodial

management measures. That can only be achieved on a basis of adequate funding put at the disposal of both the judicial authorities and the child and youth services.

For as long as non-custodial projects are beset by anxieties about their funding, with an ever-present possibility that work might have to stop for lack of money, the legislative goals of the Jugendgerichtsgesetz (Juvenile Courts Act) and Social Code Book VIII will remain unattainable.

Also relevant here are intensified efforts – with a structural focus – to improve communications between the various parties concerned. The way forward has been shown by the Bezirksjugendgericht (District Juvenile Court) of Hamburg, which has now been abolished despite protests from the profession. A no less admirable example of cooperation is being set by the teams using the Haus des Jugendrechts (House of Youth Justice) at Bad Cannstatt (Stuttgart). Besides the benefits of spatial concentration, it is important in particular that the interfaces between the various competences should work smoothly. If a given minor's case is handled throughout by the same individuals – police officer, youth ser-vices case-worker, magistrate – within their respective organisations, the usual wastage through interface frictions can be largely eliminated.

4.2 Procedural (Informal) Disposals

In less serious cases, an Ermittlungsverfahren (case investigation procedure) will go through informally and without further judicial measures, particularly if parents, the immediate social circle or the offender concerned have already taken appropriate action in relation to the offence. Such action may take the form of educative measures within the family context, an apology to the victim(s) or restitution by the offender of damage caused.

This type of practice, designated internationally as "diversion", is widespread in Germany. On average, almost 70% of all case investigation procedures against minors are disposed of by diversion, without negative impact on the incidence of juvenile criminality. Recidivism rates following diversion procedures are consistently

no worse than those following formal sanctions imposed by a Hauptverfahren (full judicial process); in fact they tend to be lower.

This is the appropriate context in which to refute the assumption that diversion measures are inappropriate as a reaction to violence on the part of minors – on the grounds that "nothing happens". This assumption is erroneous. While judicial measures are indeed not used, the offence will trigger multiple reactions in the minor's immediate social environment, and these will in most cases suffice for norm clarification. What matters is that the offender should be made aware of the wrongness of the conduct concerned and of the legal penalties that are liable to be the sequel. In most cases, repetition of the offending conduct can be successfully avoided by these means. This not infrequently happens in anticipation of or in the early stages of the investigative procedures, in the form of voluntary participation in violence-prevention projects, or of restitution, which may take the form of a Social Training Course or of a Hauptverfahren.

4.3 Formal Sanctions after an Offender has been Charged

For dealing with the more serious criminal offences committed by minors and violence by minors resulting in serious injury, the entire gamut of formal sanctions envisaged by the Juvenile Courts Act is available. These are imposed by magistrates after the minor has been duly charged. Under the Act they are classified as Erziehungsmassregeln (educative measures), Zuchtmittel (disciplining measures) and Jugendstrafe (detention in a young offenders institution). Depending on the impact interventions are intended to have, they will generally be designated as either custodial or non-custodial measures. In applying them, the law uses the strategy of Priorität der früheren Stufe (leniency before severity). This reflects the principle of proportionality and means in practice that any given measure may be imposed only if the next less severe measure does not suffice in terms of educative effect (see JGG §§ 5, 17). Thus, for example, Jugendstrafe as the "ultimate sanction" may only be imposed once other measures cease to offer prospects of educative effect.

The categories of "educative measures" (which comprise Weisungen [court orders] and educational assistance under the Kinder- und Jugendhilfegesetz [Child and

Minors Support Act] – see Social Code Book VIII) and “disciplining measures” – i.e. Verwarnung (admonishment) and Auflage (conditional discharge with case-specific stipulations) – are non-custodial measures; Arrest (detention without criminal record) and Jugendstrafe mean custody. Jugendstrafe is detention in a Jugendstrafanstalt (young offenders institution) and is the only penal sanction leading to a criminal record (listing in the Bundeszentralregister [national central register]). All other measures are recorded in the Erziehungsregister (educative measures register).

4.3.1 Non-Custodial Sanctions

Weisungen (court orders) regulate the young offender’s behaviour by imposing or proscribing certain forms of conduct with a view to supporting and underpinning the educative process. The best known and most frequently used court orders are listed at Jugendgerichtsgesetz (Juvenile Courts Act; JGG) JGG § 10; compulsory work with educational value, supervision by a mentor, participation in a Social Training Course, and Victim-Offender Mediation/Dialogue as a form of restitution are especially widely used. But the list of possibilities is open-ended. Magistrates may select a measure not listed in the catalogue if it is deemed more appropriate to the educational needs of the young offender concerned.

Among the Weisungen or orders that may be imposed, one that can be singled out as a meaningful and effective measure against violent offending by minors is victim-offender mediation/dialogue. Its aim is a progressive defusing of the conflict situation to the point of reconciliation between the offender and the victim, which means that it can be described as a victim-focused strategy. This aim can be achieved by Schadenswiedergutmachung (restitution for losses/damage caused), Schmerzensgeld (compensation for injuries and/or suffering caused), apology to the victim, assistance or support for the victim, and similar actions. It is important that the confrontation between offender and victim should take the form of a face-to-face meeting or conversation, usually with a conflict mediator participating. A surprisingly large number of victims agree to attend. It gives them an opportunity to overcome fear and humiliation better than would be possible were the offender to remain an anonymous criminal. If the victim declines to participate, on reasonable grounds such as feeling psychologically unable to cope with meeting the offender face to face, the

sentencing magistrate will consider a different sanction, such as work for a victim aid project. However, where the victim's refusal to attend is unwarranted and the offender's endeavours sincerely meant, the court may find the latter sufficient and choose to impose no further sanction.

For offenders, these encounters seem to represent major hurdles, some individuals perceiving them as more onerous than a traditional sanction.

The normative place assigned to victim-offender mediation among Weisungen in general as a formal sanction is controversial, because success in a victim-offender mediation procedure is usually contingent on the voluntary factor. In practice, consequently, conflict resolution is most often achieved on a diversion basis. Nonetheless, the addition of victim-offender mediation to the Juvenile Courts Act list of Weisungen in 1990 represented a new departure in crime policy and must be regarded as a further trailblazing step in the direction of more prevention and more restitution in penal law.

Contrary to the expectations of those responsible for crime policy planning at the time of full adoption of victim-offender mediation – who had essentially envisaged it as appropriate to cases of theft, damage to property, and verbal abuse – over half of the cases assigned by State prosecution services or courts have in fact been offences of actual bodily harm, or at the low end of robbery with violence.

Here too, as in other reactions anticipated in the Juvenile Courts Act, the considerable discretion allowed to prosecuting authorities and courts results in wide variation in actual practice across the different German states and regions. The possible applications for victim-offender mediation have by no means yet been fully explored.

The Social Training Course too is capable of instilling due respect for the bodily integrity of other human beings. Such courses afford abundant opportunities to gain young people's confidence, and in turn to instil knowledge and thoughtfulness. They may be experience-centred – taking the form, for instance, of an extended climbing expedition in the mountains, mentored by social education professionals, or offering

participants the group experience of crewing a large sailing vessel. Again, the approach to the course participants can be learning-centred, i.e. presented as a kind of seminar involving violence-related topics. Social Training Courses in various forms are widely used, and years of experience have proved their potential for teaching minors empathy and an appreciation of the importance of socially responsible behaviour.

Of the disciplining measures, Auflagen (stipulations attached to a conditional discharge) are the most important. They include obligatory work spells (community service), payment of a sum of money to benefit a common-good institution, apology to the victim, and restitution, to the best of the offender's ability. Fines apart, the community service orders are the most widely used sanctions in juvenile penal practice. They differ from the work service orders issued under the educative provisions (Weisungen) in that they are not designed to relate to the particular offending behaviour concerned, and require no mentoring by social education professionals. Even on policy grounds alone, community service orders are thus easier for a court to impose in the form of Auflagen, because these are not subject to additional constraints in the same way as Weisungen. In spite of these simplified aspects, the community service Auflage still remains better suited than fining or imprisonment to induce empathy and constructive review of the offending behaviour.

One problem with non-custodial measures as far as they affect young people with ethnic background is that inadequate linguistic competence in German rules out the many programmes involving a large element of verbal communication. First remedial steps have been introduced – in the form of anti-aggression training conducted in Turkish – but these are still too few.

4.3.2 Custodial Sanctions

The custodial sanctions of Jugendarrest and Jugendstrafe (detention in a young offenders institutions – see also above and below for definition) have very high recidivism of up to 78%. This in itself means it would be unjustifiable for penal policymakers to expect subsequent good conduct. The Juvenile Courts Act (JGG) strategy is accordingly to avoid custody as far as possible. Apart from the principle of

custody being used only as a last resort – i.e. when educative measures and Auflagen no longer suffice (see JGG Section 5 Subsection 2 and Section 17 Subsection 2) – the law also requires implementation of a sentence to be avoided when there are educational grounds for suspension. The court, in its capacity as implementing instance, can wholly or partially rescind the implementation order should circumstances arise subsequent to sentencing that justify such non-implementation of the sentence on educational grounds (see JGG, § 87 Sect. 3). The Jugendstrafe sentence imposed may be suspended for a probationary period if there is felt to be a reasonable prospect of the minor concerned responding to the sentence pronounced by good conduct, even if the sentence remains suspended (see JGG § 21). Even the actual pronouncing of a Jugendstrafe sentence (see JGG § 27) and – where part of a sentence has been served – the remaining part of that sentence may, for educational reasons, be suspended on condition of good conduct. A further point is that custodial measures, as opposed to non-custodial, are much more expensive, costing many times more per sentenced detainee than non-custodial measures per probationer.

Jugendarrest is detention for a period not exceeding four weeks. Sentence options available are Freizeitarrest (leisure hours detention) on two or four days, Kurzarrest (short-term detention) for up to four days, or Dauerarrest (full-period detention) for from one to four weeks. The Ungehorsamsarrest sentence (non-compliance detention) is a sanction used in cases of failure to comply with Weisungen or Auflagen, and is not relevant to the present context.

The severest penalty is Jugendstrafe for a period of up to ten years. The minimum Jugendstrafe sentence is one of six months. Jugendstrafe of less than two years may be suspended on probation if the prognosis for the minor's future development is favourable. This happens in about 70% of the cases in which a Jugendstrafe sentence is imposed.

5. Current Proposals for Reforms to the German Juvenile Criminal Law

Since the 1990 amendment of the Juvenile Courts Act, a large number of changes to the law have been proposed. Most of the proposals for change have come in the

wake of an individual spectacular case or a rise in crime figures as recorded in official police statistics. The principal demand is that the law should be made more stringent and general penal law applied more regularly to the 18-20 age-group. Specific examples include an option to impose a so-called Warnschussarrest (warning-shot detention) in conjunction with a suspended juvenile sentence; an increase in the maximum Jugendstrafe term of imprisonment to 15 years; and diminished application of juvenile criminal law in hearings involving 18 to 20-year-olds. Met time and again with united resistance from qualified professionals, these demands have to date not been implemented. The professional view was that such changes were unwarranted. Research by criminologists and findings on the effect of sanctions gave reason to fear that introducing them in the context of juvenile criminality would if anything have a negative effect on prospects for subsequent good conduct. Bills favouring such reforms drafted by the Bundesrat during the last two legislative periods (Gesetzentwurf zur Verbesserung der Bekämpfung der Jugenddelinquenz [Bill for Improved Measures against Juvenile Delinquency], Bundestag Printed Paper BT-15/1472 dated 6 August 2003, retabled in the Bundestag as BT-16/1027 dated 23 March 2006) were not taken up by the Bundestag. In contrast to the manifold demands for the law to be tightened, the legislator essentially limited itself in the first instance to enabling preventive detention to be imposed on 18 to 20-year-olds sentenced under the general penal law in order to better protect the general public and later (from 12 July 2008 onwards) also enabling preventive detention to be imposed retrospectively on persons on whom a juvenile sentence of at least seven years under juvenile criminal law was imposed for serious crimes when they were juveniles or 18 to 20-year-olds and who are still regarded as highly dangerous after serving their sentence.

An opposing point of view is contained in the detailed proposals drawn up in 2002 by the Association of German Jurists and the German Union for Juvenile Courts and Juvenile Court Help; based on scientific knowledge and practical experience, these proposals seek further extension of the reform that began in 1990 with the First Amendment to the Juvenile Courts Act. To date, these proposals have not been taken up by the legislator on account of a changed climate relating to crime policy. Nevertheless, the Second Amendment to the Juvenile Courts Act passed on 13 December 2007 explicitly clarified that the primary aim of the Juvenile Courts Act

was specific crime prevention rather than punishment or deterrence. The amendment contains the commendable attempt to disentangle the educational principle under juvenile criminal law from the burden of a pedagogical concept of education and to give it iconic status, explicitly declaring that the primary focus of the Juvenile Courts Act is to prevent recidivist behaviour and demanding that the procedure and legal consequences are guided primarily by the concept of education to this end.

The reform proposals referred to above also include extensive proposed changes and additions relating to such issues as the value of out-of-court conflict resolution, initial and continued professional training of personnel working within the judicial system, the place and contribution of youth social workers in juvenile court proceedings, the conduct of defence in juvenile criminal cases, preference for informal disposition, and the legal consequences system. These would largely eliminate certain practical deficiencies and would ensure the further development of the reform – as called for in 1990 by the Federal Government and the Bundestag – along the lines of the First Amendment (1990) to the Juvenile Courts Act. In view of the changed public and political discussions in Germany and in other countries on how to deal with juvenile crime, there is currently no realistic prospect that these reform proposals will be enforced, however. The Coalition Agreement for the new legislative period that has now begun provides for the introduction into juvenile criminal law of a so-called “warning-shot detention” to make the offender aware of his wrongdoing and to have an educative effect, as well as of a suspended juvenile sentence and an increase in the maximum juvenile sentence for murder – i.e. not juvenile sentences generally - from ten to fifteen years.

What remains important is that legislative decisions on such amendments and other reform proposals continue not to be taken on the basis of populist political considerations, but on the basis of solid research findings and many years of practical experience. The knowledge is there to be used.

6. Concluding Remarks

From the point of view of a crime policy that aims to contribute usefully towards prevention of juvenile disposition to violence and commission of violent acts, it is

desirable that the existing comprehensive and diverse range of good options available under the existing legislation should be competently applied, that the deficiencies in the infrastructure of non-custodial projects and court practice should be eliminated, and that priority should be given to the further development of an educatively oriented reform of the Juvenile Courts Act. The Juvenile Courts Act is in no way a product of “better times”, for when it was first codified in 1923 and when updated in 1953 and 1990 it offered a helpful response to young people who were socially and educationally in dire straits. That response has proved itself nationally, and internationally is regarded as exemplary. Against such a background, there is no requirement in Germany for hasty, ill-considered changes to the law, changes that are essentially knee-jerk reactions to isolated spectacular cases and incidents.

There remains the problem of how to achieve lasting acceptance of these insights in the political and public domain. Under the influence of sensationalist crime reporting in the media, the public and their politicians tend to have rigid and repressive views on the issue of juvenile criminality, in marked contrast to the professionals working in this field. To close the knowledge gap responsible for this mindset will be a major challenge. Among other things, it will be essential for research results to be lucidly organised and presented. The Federal Government’s Second Periodic Security Report makes a contribution to this end (it may be downloaded from www.bmj.de).

However, there is no alternative to the ceaseless endeavour to propagate scientific knowledge, most of all during times of active efforts via the crime debate to bring about reform moves, as at present. For that long endeavour, those best able to contribute are scientists, professional associations, and the relevant civil service departments and Ministries. At the same time, politicians have the responsibility, in the context of the issues discussed, to pay due heed to the needs and special characteristics of the youth generation. That constitutes an important task for the future. That demands a new culture in relations with young people. For adults, it is not enough to see only the problems that young people bring with them – the problems they have brought since time immemorial. They must also have an eye for the difficulties that their own current arrangements governing community life are creating for young people and the world they will live in. In terms specifically of juvenile criminality, this means taking cognisance of the knowledge built up by the

professional workers in the field, and making that knowledge the basis for determining appropriate reactions to juvenile delinquents.

Literature

Bundesministerium des Innern (BMI) (ed.) (2006): Polizeiliche Kriminalstatistik 2005. (www.bmi.bund.de).

Eisenberg, Ulrich (1983): Jugendgerichtsgesetz mit Erläuterungen, Munich.

Europarat Empfehlung Nr. R (87) 20 on Social Reactions to Juvenile Delinquency, 17. September 1987 (2001): In: Bundesministerium der Justiz (ed.): Internationale Menschenrechtsstandards und das Jugendkriminalrecht. Berlin, p. 197-201.

Frehsee, Detlev (2000): Kriminalität in den Medien – eine kriminelle Wirklichkeit eigener Art. In: Bundesministerium der Justiz (ed.): Kriminalität in den Medien. 5. Kölner Symposium, 27-29. September 1999, University of Cologne. Mönchengladbach, p. 23-42.

Heinz, Wolfgang (2004): Die neue Rückfallstatistik – Legalbewährung junger Straftäter. In: ZJJ – Zeitschrift für Jugendkriminalrecht und Jugendhilfe, vol. 15, p. 35-48.

Heinz, Wolfgang (2005a): Ambulante Sanktionen im Jugendstrafverfahren – aktuelle Konzeptionen und empirische Befunde. In: www.unikonstanz.de/rtf/kis/HeinzAmbulanteSanktionenimJugendstrafverfahren-Thesen.htm (Accessed: 09.10.2006).

Heinz, Wolfgang (2005b): Das strafrechtliche Sanktionensystem und die Sanktionierungspraxis in Deutschland 1882–2003 (Issue 2003); Internet-Publikation: www.uni-konstanz.de/rtf/kis/sanks03a.pdf, Version 2/2005 (Accessed: 09.10.2006).

Heinz, Wolfgang (2005c): Kriminalität in Deutschland unter besonderer Berücksichtigung der Jugend- und Gewaltkriminalität. Updated version of the speech given at the international conference "Kriminalität und Kriminalprävention in Ländern des Umbruchs" 9 to 14 April 2005 in Baku, Azerbaijan. www.unikonstanz.de/rtf/kik/Heinz_Kriminalitaet_in_Deutschland.htm (Accessed: 09.10.2006).

Heinz, Wolfgang (2005d): Zahlt sich Milde aus? Diversion und ihre Bedeutung für die Sanktionspraxis. In: ZJJ – Zeitschrift für Jugendgerichte und Jugendgerichtshilfe, vol. 16, p. 166-179.

Heinz, Wolfgang (2006): Kriminelle Jugendliche – gefährlich oder gefährdet? Konstanz.

Neubacher, Frank (2001): Die Politik des Europarats auf dem Gebiet des Jugendkriminalrechts. In: Bundesministerium der Justiz (ed.): Internationale Menschenrechtsstandards und das Jugendkriminalrecht. Berlin, p. 170-185.

Mindestgrundsätze der Vereinten Nationen für die Jugendgerichtsbarkeit (»Beijing-Rules«) von 1985 (2001): In: Bundesministerium der Justiz (ed.): Internationale Menschenrechtsstandards und das Jugendkriminalrecht. Berlin, p. 74-84.

Ostendorf, Heribert (20036): Kommentar zum Jugendgerichtsgesetz. Köln.

Pfeiffer, Christian/Windzio, Michael/Kleimann, Matthias (2004): Die Medien, das Böse und wir. In: Monatsschrift für Kriminologie und Strafrechtsreform, vol. 87, p. 415-435.

Schüler-Springorum, Horst (1987): Mindestgrundsätze der Vereinten Nationen für die Jugendgerichtsbarkeit. In: Zeitschrift für die gesamte Strafrechtswissenschaft, vol. 9, p. 809-844.

Walter, Michael (1997): Die Verteidigung junger Menschen im Spannungsfeld zwischen rechtstaatlichen Erfordernissen und empirischen Befunden. In: Walter, Michael (ed.): Strafverteidigung für junge Beschuldigte. Pfaffenweiler, p. 11-36.

Walter, Michael (20053): Jugendkriminalität. Eine systematische Darstellung. Stuttgart.

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Crime prevention in Germany
Activities and actors – a survey

There are many facets to crime prevention in Germany. The variety of the players involved is clear when one considers the abbreviations of organisations active in the field: DFK, ProPK, KrimZ, DJI, DPT, DVS, etc. This article above all aims to provide a survey of the responsible state and social institutions working in this area in the Federal Republic of Germany and to provide information on how to contact the relevant people; the role of the judiciary will be given particular consideration.

I. General aspects

1. The term "crime prevention"

Crime prevention, as the term is defined in Germany, refers to the prevention of punishable actions by means of preventive measures as well as to the reduction of the damage resulting from such actions. This also covers reducing the level of fear of crime amongst the population.

A distinction is normally made between three forms of prevention:

- **Primary prevention** aims to tackle the problem of crime at its roots by combating its underlying causes (e.g. by altering social conditions, education, improving living conditions etc.)

- **Secondary prevention** aims to reduce the opportunities for committing crimes and to make criminal offences more difficult to commit (preventive measures,

such as alarm systems and electronic immobilisers). Measures that support potential offenders/groups in respecting the law are also included in this category.

- **Tertiary prevention** tackles the subject once a criminal offence has already been committed. The aim is to prevent perpetrators reoffending (e.g. through execution of a sentence, probationary services or throughcare and aftercare).

Since the boundary between preventive and repressive measures is fluid, there are some experts who cannot accept this traditional division into three levels of prevention.

2. Context

The following statements are undisputed among crime prevention specialists:

- It is imperative to have available repressive means for combating crime. However, despite providing isolated means of effecting improvements, these are increasingly reaching their limits.
- In contrast, the opportunities for non-repressive crime prevention have not yet been fully exhausted in Germany.
- Crime prevention is the task of the whole of society, to be dealt with by the Federal government, the *Länder*, local authorities, and other players in the social field.
- Cooperation between diverse institutions needs to cut across competencies if a preventive policy is to succeed.

The first prevention councils on a local authority and *Land* level were founded from around 1990 to deal with crime prevention in a practical, citizen-centric way.

II. Committees and activities

There are now some 2000 crime prevention committees across the Federal Republic of Germany. On account of Germany's federal structure, competencies and activities in the field of crime prevention are focused on the *Land* level, more specifically local

authorities, since crime is above all a local phenomenon. However, the Federal government is also responsible for important tasks in this field.

Responsible institutions

1. Local authorities

For some 20 years more and more so-called prevention committees or comparable committees have been formed on the local authority level, often calling themselves "round tables". These committees usually comprise local authority representatives and the police, along with many associations, and the mayor or regional administrator often chairs them. Including high-level officials in the committee has a positive effect on the results achieved. Focal areas are carrying out local crime analyses and many specific projects, particularly targeted at children and young people.

2. The *Länder*

There are now *Land* Prevention Councils or similar committees in all the *Länder*.

Further information on the prevention councils of the individual *Länder* is to be found on the following websites:

Baden-Württemberg: www.innenministerium.baden-wuerttemberg.de
Bavaria: www.polizei.bayern.de
Berlin: www.berlin-gegen-gewalt.de
Brandenburg: www.landespraeventionsrat.brandenburg.de
Hamburg: www.Hamburg.de
Hesse: www.landespraeventionsrat.hessen.de
Mecklenburg-West Pomerania: www.kriminalpraevention-mv.de
Lower Saxony: www.kriminalpraevention.niedersachsen.de
North-Rhine/Westphalia: www.lpr.nrw.de
Rhineland-Palatinate: www.polizei.rlp.de
Saxony-Anhalt: www.mi.sachsen-anhalt.de
Schleswig-Holstein: www.kriminalpraevention-sh.de

Saarland: www.polizei.saarland.de
Thuringia: www.gemeinsam-gegen-gewalt.de

3. Federal Administration–*Länder* Committees/Institutions

The following institutions are of particular relevance:

a) Standing Conferences of Ministers

The Standing Conferences of Ministers, as well as dealing with many other topics, are also involved in crime prevention. For example, the Standing Conference of Justice Ministers deals with judicial matters regarding prevention; the Standing Conference of Ministers of the Interior looks into questions regarding police preventive measures; the Standing Conference of Ministers of Juvenile Affairs at prevention related to child and juvenile crime; and the Standing Conference of Finance Ministers deals with issues regarding the financing of preventive measures. When there is a need for cooperation across these standing conferences, the Standing Conference of Minister-Presidents can also address the question of crime prevention, for instance, in the recommendations made by a working group on “Outlawing Violence and Strengthening Families' and Schools' Power to Raise Children".

b) Centre for Criminology (*Kriminologische Zentralstelle*)

The Centre for Criminology is an academic institution based in Wiesbaden (www.krimz.de) which has the legal form of a registered association. Members are the Federal Government and the *Länder*, each represented by their Ministry of Justice. The focus of its work is research and documentation in the field of criminology and crime prevention. It acts as a mediator between criminological research and practical criminal justice work.

c) Police Crime Prevention Programme of the *Länder* and the Federal Government (*Programm Polizeilicher Kriminalprävention der Länder und des Bundes*, ProPK)

ProPK is a transregional preventive programme whose purpose is to provide information to the population, multipliers and other supporting organisations concerning the various forms of crime and means of preventing it. The main emphasis of its work is secondary and police prevention (e.g. providing information to the public on technical means for protecting one's home against burglary).
For more information please go to: www.polizei.propk.de.

d) Coordinating Group of the Federation and *Länder* for the Prevention of Drug Addiction (*Bund-Länder-Koordinierungskreis zur Suchtprävention*)

This committee above all coordinates addiction projects. The Federal Ministry of Health and Social Security (www.bmgesundheit.de) is responsible for the project on behalf of the Federal Government. Due to the close links to crime prevention (e.g. drug-related crime), the Federal Ministry of Justice cooperates with this committee.

4. The Federal Government

a) Interministerial Working Group (*Interministerielle Arbeitsgruppe*, IMA)

The IMA was set up at the initiative of the Federal Ministry of Justice (www.bmj.de).
Each Federal Ministry that can contribute towards crime prevention is represented in it. The IMA's task is to share information between the Federal Ministries as well as to work on crime prevention strategies that cut across competencies.

b) German Forum for Crime Prevention (*Deutsches Forum für Kriminalprävention*, DFK)

The DFK (www.kriminalpraevention.de) was established as a foundation under civil law in 2001. Its founders were the Federal Government, the *Länder* and private companies and associations. Top local authority associations and religious communities/groups are involved in its work. The purpose of the foundation is to utilise the opportunities for prevention as widely as possible and to promote all aspects of them. Its core tasks are to network and cooperate across Germany, to pool resources, transfer know-how and to do public relations work for crime

prevention campaigns. This foundation is very important, particularly in view of Germany's federal structure and the wide-ranging responsibilities and activities on a local authority and *Land* level.

c) Federal Criminal Police Office (*Bundeskriminalamt*, BKA)

The BKA is a police authority at Federal Government level whose task, as the central criminal police force in Germany, is to coordinate the fight against crime on a national and international level. The BKA's criminological work includes, among other things, carrying out and funding projects in order to analyse a wide variety of phenomena and tasks relevant to police work and to develop approaches to combating crime and crime prevention. In addition, the BKA, in cooperation with the *Land* police forces, manages the "Infopool Prevention", a collection of good practice-oriented prevention approaches which is available on the Internet (http://www.bka.de). For many years, it has also been involved in technical prevention issues.

d) German Juvenile Institute (*Deutsches Jugendinstitut*, DJI)

The DJI is a Munich-based non-university social science research institute. The Institute is managed by an association comprising members from politics, academic life, associations and institutions involved in child, youth and family support. The Institute is funded by the Federal Government and investigates the situation of children, young people, women, men and families, as well as government and social means of supporting and promoting them. Along with many other relevant social/political questions, the Institute's research spectrum also covers the prevention of child and juvenile crime. The National Report on Strategies for Violence Prevention in Child and Youth Age Groups in Germany was initiated and developed in cooperation with the DFK. An English version may be downloaded from the relevant websites.

5. German Congress on Crime Prevention (*Deutscher Präventionstag*, DPT)

The DPT has now been taking place for fifteen years. It aims to present crime prevention within a broad social context at its annual national congress. It contributes

towards sharing information on current and basic crime prevention issues, sharing information among experts and practitioners from all areas of crime prevention, and national and international networking. The DPT is funded by the DPT-German Congress on Crime Prevention's non-profit-making organisation, a subsidiary of the German Foundation for Crime Prevention and Offender Support (*Deutsche Stiftung für Verbrechensverhütung und Straffälligenhilfe*, DVS).

The fifteenth Congress will take place from 10 to 11 May 2010 in Berlin. For further information please go to: www.praeventionstag.de

III. The role of the judiciary in crime prevention

1. General aspects

While the judiciary as a whole is rather cautious when it comes to getting involved in specific crime prevention projects, its does have an important role to play in efforts regarding prevention. Its involvement is most obvious in tertiary prevention (in particular as regards the execution of sentences, probationary services and throughcare and aftercare). Criminal law relating to juvenile offenders specifically draws attention to the possibility of preventing overreaction to juvenile delinquency by means of diversion (when no formal proceedings are instigated), thereby having an educative effect on offenders. Victim-offender mediation is particularly important from an educational point of view. Attention is also drawn to the possibilities for victim protection in criminal proceedings, inter alia through the new Victims' Rights Reform Law of 2004. Its aim is to limit the crime's psychological effects on the victim (one of the concerns of crime prevention).

2. The special significance of family courts

Since the Act on the Reform of Parent and Child Law came into force on 1 July 1998, family courts have been responsible for the differentiated range of instruments set out in Section 1666 of the German Civil Code (Court measures in the case of endangerment of the best interests of the child) even if the child's parents are not

separating or divorcing. The regulation provides multifarious options for acting before a child crosses the line into criminality. These include, for example, "educative talks" in which the family court can meet with the child, the child's parents, the Youth Welfare Office, and, if necessary, the police, school and other institutions to discuss how to counteract the risk to the child.

3. Involvement of judges and public prosecutors in crime prevention bodies

The involvement of judges and public prosecutors in crime prevention bodies, particularly local authority crime prevention councils, is of considerable significance. Family court judges in particular are often confronted with risk cases before the children in question offend and can provide valuable insights on the situation in the relevant community. They can thereby make a significant contribution to local crime analyses, which are usually the starting point for the work of local authority prevention councils. Judges and public prosecutors can also help to develop joint crime prevention strategies. They can also do valuable work in specific crime prevention projects, for example through awareness training in school projects.

4. Periodical Reports on Crime and Crime Control in Germany

Developing effective methods for preventing and dealing with crime require as exact an account as possible of the crime situation and related problems. The Federal Government has therefore published Periodical Reports on Crime and Crime Control in Germany (for further information, please refer to the article by R. Blath in this booklet).

IV. International cooperation

In recent years, crime prevention has also received increasing attention at international level. Germany is involved in relevant committees in the United Nations, the European Union and the Council of Europe.

The Hague Programme on strengthening freedom, security and justice in the European Union is a multi-year EU programme in the field of justice and home affairs

policy. In it the European Council assigned crime prevention an important role, classifying it as an imperative part of efforts to create an area of freedom and justice in the European Union. In the follow-up “Stockholm Programme”, the Council strengthens this role, referring to the new legal basis for cooperation in the field of crime prevention within the EU in the Lisbon Treaty.

The European Crime Prevention Network (EUCPN), which was created in 2001, aims to provide an efficient instrument for Member States, the Council and the European Commission. The network, in which each EU Member State is represented, primarily serves to share information on successful practices in the field of prevention and to strengthen crime prevention at EU level. Representatives of the Federal Ministry of Justice, the Federal Ministry of the Interior and the German Forum for Crime Prevention have been nominated as contacts for the EUCPN in Germany. At its annual Best Practice Conference, primarily addressed at practitioners, Member States present successful and exemplary crime prevention projects.

For further information please go to:
www.eucpn.org

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