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Report on Crime
and Crime Control
in Germany

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Introduction

The Federal Government considers the continuous improvement of internal security as one of its most important tasks. This was clearly expressed by the government in the guidelines of the coalition agreement “A firm stand against crime and its causes”.

The development of effective approaches for finding solutions in dealing with crime demands that the crime situation and the problems related to it be taken stock of as comprehensively as possible. The existing statistics for crime and for the administration of criminal justice already provide extensive information for this purpose. Clearly more satisfactory answers to (topical) questions of internal security can nevertheless be gained from a comparative study of this pool of data, taking into consideration scientific analyses and findings. The Federal Government has therefore decided to put together a scientifically-based, comprehensive report about the security situation in the Federal Republic of Germany.

In order to transform this intention into reality, both the Ministry of the Interior and the Ministry of Justice have set up a Committee of Experts, consisting of scientists and scholars from the areas of criminology, sociology and psychology as well as representatives from the Federal Criminal Police Office, the Federal Statistical Office and the Central Institute of Criminology. The Committee has been commissioned with drawing up the Report on Crime and Crime Control.

The objective of this report is to put together the most comprehensive picture possible of the crime situation in Germany. For the first time in a report, it will draw together findings taken from the existing pool of official data, particularly from data provided by the criminal statistics of the police and by the statistics of the administration of criminal justice. At the same time, the report will use as a reference the results of scientific research into the manifestation and causes of criminality. Aided by more extensive findings, taken particularly from the area of research into undetected crime as well as from interviews with victims, this portrait of the crime situation will be brought into a more scientific light and will be complemented by knowledge gained from the victims' perspective. The analysis of material from existing data will take place for Germany as a whole. For this purpose, only data which had already been agreed upon with the Länder has been used. In those sections where the authors of the scientific section have drawn more strongly on Länder data in their contributions, they had reached agreement on this with the respective persons responsible for the underlying studies.

The report aims to cover as long-term an observation of the crime situation as possible, as establishing continuity over a longer period of time allows important developments in criminal activities to become clearer and makes possible a more differentiated judgement of the current security situation. This takes into consideration that the Federal Government intends to expand upon and update the report at regular intervals in the future.

The section of the report which was drawn up by the Committee of Experts deals with selected areas of crime and its structure, development and causes in accordance with statements on the security situation in general and according to the possibilities and deficits of criminological knowledge in particular. In addition to traditional types of offence, such as offences against property, drug offences and crimes of violence, newer forms of crime – in the present report Internet crime for example – are also discussed. The prosecution of crime under criminal law is dealt with in its own section of the report and this investigation process is traced from beginning to end. Considerations for crime prevention are dealt with in the conclusion. Furthermore, every edition of the Report on Crime and Crime Control should portray in detail one particular topic of main interest which is considered to be especially urgent at the time. This report goes into child and juvenile delinquency in some depth, an area which has become more and more the subject of public interest in recent years. Special attention is paid here to violent offences among young people.

With regard to this main topic of interest, the Periodical Report on Crime and Crime Control intentionally draws to the foreground security-related approaches rather than those of juvenile and social policy. These are the subjects which are dealt with in the Federal Government's reports on youth, family, non-German citizens, social welfare, as well as on poverty and wealth. It is recommended that these reports be used as a source of reference.

Special thanks should be made at this point to those who drew up the scientific sections of the report, Prof. Dr. Roland Eckert, Prof. Dr. Wolfgang Heinz, Prof. Dr. Hans-Jürgen Kerner, Prof. Dr. Christian Pfeiffer, Prof. Dr. Karl F. Schumann and Dr. Peter Wetzels, who was appointed later to the Committee of Experts after Prof. Dr. Pfeiffer left. They already laid the foundations for the realisation and the success of the Periodical Report on Crime and Crime Control through their committed and constructive work on the report and their readiness to engage in critical dialogue. Thanks must also be made to the representatives of the Federal Criminal Police Office, the Federal Statistical Office and the Central Institute of Criminology who supported considerably the drawing up of the report.

The fundamental consensus in the entire Committee was invariably a decisive factor for the final version of each respective contribution to the report. It goes without saying, however, that the world of politics and the world of science do not always evaluate certain offence-specific developments and their causes in the same way. This is occasionally reflected in the individual contributions. The scientific descriptions of the individual areas of crime are followed by the criminal and legal policy conclusions of the Federal Government. There, those questions considered by the government to be urgent for the purposes of policy-making are formulated and measures which have already been introduced as well as approaches to problem-solving for the future are highlighted.

The Federal Government is thoroughly aware that the report also draws attention to areas of weakness, for example in the area of the availability of data on undetected crime. Just as often, problem areas become apparent in the text that cannot be met with simple and concise political answers. Furthermore, as the first part of a regular set of reports, it cannot lay claim to completeness, rather it aims at continuous further development and completion. This edition of the Periodical Report on Crime and Crime Control sees itself therefore as a ground-laying work which aims to provide a broad-ranging preparation and analysis of the existing material in a way which has never been achieved in this form till now. As such, it should act as an impetus for open discussion of the subjects dealt with, should promote the dialogue between the fields of politics and science about the most important problems of internal security and should act as a tool for the evaluation of previous approaches to solutions for dealing with crime as well as being a guide for the future.

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I. Summary of the Report

1 General Section

Crime and internal security are, rightly so, at the centre of attention, both of the people of this country and of the media. This is a subject where the dangers from one-sided or incomplete information are particularly great. The public's interest here is usually alerted to the subject by both individual spectacular occurrences and isolated figures. In order to make possible an appropriate evaluation of the security situation, it is therefore necessary to take a wider approach than has been usual up to now. Using all of the available statistical data and taking into account scientific findings, both the quality and the quantity of crime can be ascertained, classified and evaluated. This involves both an analysis of the development of crime over time and a comparison with other countries. Only in this way can the citizens of a country assess the security situation appropriately; and only thus can the state react correctly to the requirements of crime policy as well as being able to examine the accuracy of its measures.

The Periodical Report on Crime and Crime Control in Germany¹ (PRC) breaks new ground in the drafting of official reports concerning the crime situation in Germany. It helps complete the picture we have been used to up till now, a picture which was based on individual statistics, in particular those of police criminal statistics and criminal prosecution statistics. In this complete picture, the available statistical information and the scientific findings are taken as much as is possible into consideration. The victims of crimes have been afforded more attention than has previously been the case, as has the risk of criminality for the public. The various penal reactions as well as state measures for crime prevention have also been included.

Every analysis of crime faces the problem of an exact definition of the subject at hand. What exactly constitutes a "crime", has never been defined in a way acceptable for all people at all times, rather the accepted definition has been the result of what a society has deemed to be criminal. The classification of an act as "criminal" however not only assumes an evaluation of it as such, but this classification already fails to be realised in everyday life in that a crime is for the most part not perceived as having occurred or has at least not been perceived as a punishable offence. In this way, for example, several thousand shoplifting offences are not discovered at the time they occur. Rather, the number of crimes of this type that must have been committed are only estimated much later, when a department store discovers that there are sizeable discrepancies when doing the end of year inventory. Many are a victim of criminal deceit, without even having noticed it.

But even allowing for this limitation, the exact extent of crime is unknown. All statistics for crime and for the administration of criminal justice only measure what has become officially known, so-called reported crime (i.e. amount of crimes officially reported). This amount of reported crime unavoidably reflects only, to a greater or lesser extent, a subset of "criminal reality" depending on the type of offence. What and how much becomes officially known, especially what is recorded by the police in the police criminal statistics, depends to a great extent on the reporting behaviour of the population. Changes in recorded crime can basically, therefore, just as likely be affected by changes in reporting behaviour, as well as from changes in the criminal reality. The crux of the matter with any statement about the development of criminality which draws its information alone from officially known crime, is, that it remains unclear whether the statistical figures mirror the development of the "criminal reality" or whether they are merely

¹ The translator and the authors have decided to translate the title of this report in English as the "First Periodical Report on Crime and Crime Control in Germany". This followed some amount of discussion, and we feel this title best conveys both the content and the focus of the report. English speakers who have some command of German will appreciate that certain difficulties arise when using more direct possible translations such as "Report on Security", "Report on Domestic Security" or "Report on Interior Security". Where the report is referred to in the body of the text, we have used the shorter form "Report on Crime" for the purposes of simplification.

the result of a shifting of the frontiers between recorded and unrecorded crime. The commonly-held belief that one can more or less proceed on the assumption that the "criminal reality" has developed exactly, or at least very similarly, to the way in which criminality is reflected in the statistics is no more than a deduction which rests upon the tacit, or in any case on the generally incorrect assumption, that all relevant influential factors which have an impact on "recorded" crime besides the "actual" criminal developments remained constant in the same period of time.

Whether, to what extent and in what areas the willingness to report crimes has changed can be measured for important partial areas within the framework of statistic-accompanying crime surveys. As opposed to the USA, Great Britain or the Netherlands, Germany is still lacking in representative, periodical crime surveys. This means that all statements concerning developments in the number of unreported crime are not sufficiently backed up empirically. Only one single German study exists in which data about behaviour in the reporting of crime was assessed using similar methods for three different points in time, each of which lay at least ten years apart (1975, 1986, 1998). This study concentrates on (and is limited to) one of Germany's large cities (Bochum). In 1998, compared to 1975, the study found that there was a slight reduction in the willingness to report a theft, whereas the readiness to report bodily injury clearly increased. Around two thirds of this considerable increase in reports to the police of cases of bodily injury – according to this study – could have to do with a change in the reporting behaviour, meaning that it therefore represents nothing more than a shifting of the frontiers between unreported and reported crime

The field of criminology has long attempted to throw some light upon unreported crime by interviewing potential offenders and victims. Admittedly, this is only feasible, taking into consideration the amount of work necessary, for particular offence categories and groups of victims and is furthermore burdened with considerable methodological problems. Up to now, studies on detected crime in the form of so-called offender interviews, in which the interviewees are expected to provide information about their criminal behaviour, have mainly been carried out among young people. On the one hand, these studies have shown that juvenile delinquency in the case of less serious offences is regarded statistically as "normal", whereas it is "abnormal" – at least from a statistical point of view – to be "caught" and punished for these. Accordingly, juvenile delinquency has, as a rule, proved to be a form of conspicuous behaviour which is related to growing up generally, and which subsides when adulthood is reached. Serious crimes are the exception; multiple offenders or even habitual offenders constitute a small minority. On the other hand, self-report studies, in the form of victim interviews, in which the interviewees were expected to provide information about their victimisation, show that, taken as a whole, younger people are more often the victims of crime than older people and that men are more often victims than are women.

Nearly all of the recorded offences come to police attention because they are reported by the public; with respect to traditional crime, over 90% of the recorded offences are reported to the police by the public. Crime surveys have shown again and again that the willingness to report – and because of this the figures on unrecorded offences – is dependent on the type of offence, the perpetrator, and the victim, and also varies according to the offender-victim constellation. The seriousness of the injury or damage suffered has a particular influence on the willingness to report. This in turn means that serious offences are over-represented in "recorded" crime. In addition, in the case of property offences and damage to property, whether the victims are insured or not plays a decisive role.

Three out of four crimes registered with the police are property offences which often cause only minimal damage. A further factor are road traffic offences. They are no longer recorded in police crime statistics; due to reports in criminal prosecution statistics and other sources, in which nearly 30% of all convictions are for just such offences, one can estimate the magnitude of their importance. Serious crimes which harm the physical integrity of the individual citizen – quantitatively viewed in comparison – are seldom occurrences. Robbery/extortionate assault accounted for only 1% of all crimes registered by the police in 1999,

rape/sexual coercion accounted for 0.1% and murder/manslaughter for 0.05%. In the last three decades, the danger of being a victim of either rape/sexual coercion or murder/manslaughter have not increased in the figures for recorded crime. This is also true for the sexually motivated murder of children. Economic offences were just as seldom (1.7%) registered by the police, although it must be admitted that these accounted for 61% of all damages registered by the police.

While in the case of economic crime, the huge discrepancy between the number of cases and the damages caused thereby can at least be identified, the danger and damages which are caused by violent crime and/or offences against sexual self-determination are far more serious. Existing statistical information makes the impact of these extremely difficult to estimate and almost impossible to determine precisely.

Crime recorded by the police, as measured in the number of criminal offences per 100,000 inhabitants, has approximately doubled since the mid-fifties; nevertheless, a slight decrease has been registered since 1996. The long-term increase in crime recorded by the police is due, to a large extent, to the development in the number of property crimes, especially widespread offences like petty theft, including above all shoplifting. It seems fair to assume that at least a certain amount of the increase is due to changes in reporting behaviour.

Admittedly, certain violent offences are also on the increase, particularly bodily injury and robbery. At a first glance, considerable rates of increase can partially be observed. However, care must be taken, for example, in our evaluation of the situation, as the size of our basic statistical point of reference plays an important part in the evaluation. To make this clear: in the case of a low number as starting point (e.g. out of 1,000 cases), the absolute increase in cases (e.g. 250) leads to a relatively high increase rate of 25% in comparison to a starting point of, for example, 10,000 cases (2.5%). When taking a small number as starting point, it also becomes more noticeable than in the case of widespread offences, that an increase in the absolute figures always leads to a higher percentage than a reduction does: in 1999, 18 committed, sexually motivated murders were recorded by the police in the Federal Republic of Germany. If 36 were to be registered in the following year, this would mean an increase in the crime rate of 100%. If, in the year after that, the figures once again went down to 18, this would nevertheless mean statistically a crime reduction of only 50%! In fact, however, the original starting point has been reached once again.

In the opinion of the public at large, violent crime is generally associated with young people and the victims of violence are generally thought to be older people. This overlooks the fact that the victims of juvenile violence are usually from the same age group as the perpetrators, and young people are very often the victims of violence perpetrated by adults. If we also take into consideration violence within the family, young people are far more often the victims of violence than they are perpetrators of it. Young people therefore deserve the attention and the protection of society, not so much as perpetrators, but much more as victims of violence.

When it comes to offenders, adult males are those who are most often recorded: in 1999, 70% of all suspects were 21 and over - 77% were male. Taking into consideration percentages of subgroups of the population as a whole, it has been shown that young people are proportionally over-represented among suspects investigated by the police. This over-representation of young people is put into perspective nonetheless when one takes a look at the seriousness and the type of offences committed: the percentage of less serious offences is highest among children and juveniles. As opposed to this structure in offences committed by young people, a far more complex structure can be observed in adult crime, which is for the most part tied up with higher damages and injury. Not young people, but rather adults are the typical perpetrators of economic crime, environmental crime, trade in drugs, weapons and human beings and further kinds of organised crime as well as violence in the family, and so on.

These findings, which have been portrayed for the purposes of an introductory overview, are gone into in more depth in particular sections of the Periodical Report on Crime. There it becomes repeatedly clear that the intention to put together a comprehensive picture of the crime situation, which makes optimal use of the various means at our disposal, still has to struggle with substantial shortfalls in the available information. This is caused by several factors. On the one hand, Germany is lacking in periodical, statistic-accompanying crime surveys.

On the other hand, for certain types of offence, the statistical data which would be necessary in order to draw up a picture of the crime situation are either failing completely or are, if they exist at all, often insufficiently detailed or are not able to be compared directly with one another. The existing system of criminal statistics and criminal justice statistics is urgently in need of revision and completion so that it can be taken into account by the current information requirements of crime policy. In this respect, it will be of utmost importance to determine objectives for research-findings on the basis of statistical data. At the moment, for example, it is not possible to use the available statistics to determine what has become of persons above the age of normal criminal liability, and who have been investigated by the police because of murder or manslaughter (including attempted murder or manslaughter). The only thing which can be taken from the statistics is that approximately a third of these suspects have actually been convicted of murder or manslaughter; what cannot be ascertained, however, is which sanctions pursuant to criminal law were carried out with the other two thirds of the suspects. This question could only be answered, if data were put together in the future, in such a way that developments could also be measured beyond the individual instances. It goes without saying that every increase in information also means an increase in financial expenditure.

The objective crime situation is better than the way it is portrayed, a picture which has come about due to the vast number of sensational descriptions of individual cases in the media. So much can be said, looking at the picture as a whole, despite developments in the area of violent crime and in that of extreme right-wing and xenophobic offences.

However, crime not only has this objective component, but also a subjective one, namely "fear of crime". The fear of crime negatively affects our quality of life. Therefore, this fear of crime must be taken seriously by those in the world of politics.

2 Depiction of Individual Areas of Crime

2.1 Violent Offences

The general category of violent crime in the police crime statistics covers only particular types of offence which relate from serious to less serious physical and sexually motivated acts of violence carried out against human beings.

The violent offences, as understood in this police definition, accounted for about 3% of all crimes recorded by the police in 1999. That was 228 cases per 100,000 of the population in 1999. Dangerous and/or serious bodily injury, which accounted for two thirds of the figures, made up the largest proportion of violent offences; robbery and extortionate assault made up for approximately one third. Homicidal offences only accounted for an extremely small proportion. Use of firearms or threatening with a firearm accounted for about 5% of all recorded violent offences; they occur only seldom and have in fact been receding over the past years.

Both reported and unreported crimes show clear regional differences in the negative impact of violence. On the one hand, they are related to the residential structure: in rural areas, fewer violent offences are recorded, which partly has to do with the reluctance to report crimes compared to in the large, anonymous, densely populated metropolitan areas. If we take comparable residential structures, a clear North-

South divide can be recognised, with the South showing a lesser impact of crimes of violence. However, one must also take into consideration that the willingness of the victims to report crimes is less in the South.

Following a period of relative stability in the nineteen-eighties, the nineteen-nineties showed a clear rise in violent crimes recorded by the police up until 1997; since then, recorded violence in various types of offence has been declining.

Those increases recorded since 1997 are mostly among male juveniles and young adult offenders², i.e. persons from 18 to less than 21 years of age. Young men are clearly over-represented, both as victims and as perpetrators of crime. The disparity in the figures for male and female suspects has become larger over the years. Furthermore, violent offences committed by female suspects are usually less serious; criminal proceedings against women are more often dropped than those against males.

The increase in recorded violent offences up to about 1997 took place mainly in cases involving juveniles and young adult offenders who committed crimes within their own age group. The risk of older people becoming a victim of crime, on the other hand, has not increased. At the same time, evidence is available which shows that these increases go hand in hand with a reduction in the seriousness of the offences as well as with an increase in the willingness to report crimes. The results of several victim surveys have shown that, in the second half of the nineteen-nineties, victimisation rates of violent crime have gone down, which was simultaneously accompanied by an increase in people's willingness to report. Consequently, the actual decline in the risk of being a victim of crime as represented in the figures for recorded crime is not appropriately reflected.

The developments in recorded cases differ according to the types of violent offences. The increase in violent offences in the nineteen-nineties has to do, above all, with an increase in robbery and in dangerous/serious bodily injury. The figures for homicide and rape have more or less remained stable or have decreased over a longer period.

In the area of judicial reactions, an increase can be seen in the number of cases which are dropped. Analysis of files, as well as of the statistics for damages taken from the criminal statistics of the police, have shown that, above all, it is less serious cases which have been recorded more increasingly and these are the cases which are most likely to be dropped. In as far as a conviction was made, the last years have seen, not only an increase in the percentage of cases which ended in imprisonment, but also in the length of the terms of imprisonment given. It is conspicuous here that the numbers of those convicted and the length of the terms of imprisonment have increased far more in the cases of non-German suspects, than one would expect considering the percentage of non-German suspects among all suspects of violent crime. The exact reasons for this remain unclear up till now and further research is needed to clarify whether non-German citizens are possibly punished far more severely for violent offences than Germans and why this may be the case.

One problem area which is drastically under-represented in police and judicial statistics is violence within the family. With regard to violence among adults, only one published study which is based on representative data has been available for Germany till now and it is from 1992. Men and women both reported equally often their experiences as victims of crime. The seriousness of the violence which female victims

² In the translated text, we had a certain amount of difficulty finding a suitable term for the age group "18 to less than 21 years of age". The English "adolescents" seemed to us to be a less than satisfactory translation for the German "Heranwachsenden". These difficulties stemmed both from the differing legal terminology in different parts of the English-speaking world and from the lack of a clearly-defined association between the word 'adolescent' and a particular phase of youth. Therefore, for purposes of clarity, we settled for "young adults/young adult offenders" to refer to this age group as the most logical, and hopefully acceptable compromise.

suffered was generally worse. This is true for both sexually violent crimes and physical abuse. Over 90% of the cases were not reported to the police by the victims. Furthermore, it can be seen that violence within the family is related to the unfavourable social conditions of the family. A lack of repeated studies means that, at the moment, no assessments based on representative data can be made, about how far the spread of such forms of violence in the family is changing over time and how the willingness to report in such cases has developed. As a rule, one can say that findings from crime surveys are insufficient for judging long-term developments. It nevertheless seems that research work is urgently needed in the area of violence in the family, especially in light of the enormous extent of the matter, the far-reaching consequences and the particularly high figures, also for serious cases, which remain unreported.

2.2 Other Sexual Offences

2.2.1 Sexual Abuse and Sexual Violence Against Children

Since the mid-nineteen-eighties, the problem of the sexual abuse of children has become a widely debated social problem in the fields of science and politics and especially in the media. Several reforms have also been undertaken by the legislature, with the aim of improving the safety of children and protecting them from sexual violence. The statutory range of punishment has been increased, the punishability of crimes committed abroad has been extended, the situation faced by child witnesses in court has been improved and therapeutic measures for perpetrators have also been improved. In addition, there has been a tightening of the requirements for making prognoses about recidivism and for early release from prison. More than anything else, reports about the sexually motivated killing of children have understandably moved and to some extent unnerved the whole of the German public considerably in recent times. The debates among experts were occasionally strongly emotional and did not always correspond to the current fund of knowledge in the social sciences. And so, in contrast to the impression conveyed by the media, cases of sexually motivated child killings account for a very small proportion of cases and have shown a clear and stable decline.

The data of the police criminal statistics show in general that, since the nineteen-sixties, offence rates of sexual offences against children have been on the decline. Victimisation rates of children who are victims of sexual offences have been relatively constant in the past years and have more recently been going down slightly. The number of perpetrators of sexual abuse against children who are recorded by the police was on the increase in the nineties until 1997. This can, however, to some extent be explained by the increase in the number of cases which were cleared up. Since 1997, a decline in the number of suspects per 100,000 of the population aged eight or over can be confirmed, although the number of cases which were cleared up increased further. It also must be made note of, that in the face of growing public sensibility to this problem, the willingness of people to report such crimes has presumably increased.

Moreover, information from the analysis of files, as well as statistics on the punishment of crime show that, when it comes to the sexual abuse of children, the number of cases cleared up by the police in which no proceedings were opened in the course of further investigation because they failed to come up with sufficient suspicion of a criminal act is higher than with other types of offence (at approximately 50%). This figure has hardly changed over the last years. In so far as charges are brought, custodial sanctions have been increasingly made use of. Furthermore, since the nineteen-eighties, the average length of the terms of imprisonment issued by the courts have increased. Indications of a reduction in the court sanctions for offences of sexual violence against children do not exist.

The results of the only representative self-report study to have been completed up till now, published in the nineteen-nineties, also show that a reduction in the number of sexually violent offences against children can be assumed. However, the majority of cases of sexual abuse (approx. 90%) are not reported to the police. The number of offences reported, especially in serious cases where the perpetrator is known to

the victim from his/her social environment, is extremely low. Due to a lack of repeated representative studies for Germany, it is however impossible at the moment, to come up with an exact estimate of developments in this kind of crime which often remains unreported and of the reporting behaviour with regard to such offences. In addition, all of the self-report studies currently available show that the largest group of perpetrators come from the extended family environment of the children. In comparison, incest offences as well as acts by total strangers account for only a very small percentage of the whole.

Estimating how likely a perpetrator is to commit an offence more than once is difficult due to the high proportion of these crimes which remains unreported. A more recent study, carried out by the Central Institute of Criminology has also shown that relevant recidivism punished by a court is more seldom than assumed among the public, applying to about one fifth of convicted offenders. If, however, unreported offences are taken into consideration, the only study on this specific type of recidivism which exists, and which drew its observations from a considerable period of time, shows that the probability of a repeat offence is substantially higher than twenty percent. Furthermore, the study indicates that, recidivism probabilities differ from one another, depending on the type of sexual offence, the specific form of the basic individual background to the offence, and the specific disturbances involved.

One particular form which is directly related to technological developments, such as the Internet and the availability of video technology, is the sexual abuse of children in relation to the production and dissemination of child pornography. At the moment however, the available information concerning the production, dissemination and possession of child pornographic visual material is limited to the data for detected crimes. The office for the co-ordination and evaluation of child pornographic media at the Federal Criminal Police Office has collected, since 1996, all of the information concerning child pornography reported to and by the police for all the regions of Germany and has evaluated these. A clear increase in the number of cases recorded has occurred since then. As the number of cases of the possession of child pornographic material has increased since 1996, the number of people finally convicted for this offence has also increased. Those convicted are mostly adult males who were mainly charged with a fine. Due to the lack of corresponding empirical studies it is unclear, however, whether one can talk about a real increase in the number of cases of child pornography or whether this represents an increase in the willingness to report such offences to the criminal justice authorities. It also remains unclear, how high the number of children is who are instrumentalised as the victims of abuse for the purposes of child pornography and how this number is divided up between Germany and abroad.

One further special problem is the sexual abuse of children abroad by German citizens, so-called sex and prostitution tourism. The sexual abuse of children abroad by Germans has also been punishable under German law since 1993. The problem of the sexual exploitation of children beyond national borders has been the subject of numerous campaigns both on a national and international level over the last years. In view of this, our knowledge of the extent of and the developments in sexual violence against children abroad is totally inadequate. The data presently available to the investigating authorities and the judiciary show that only very few cases have been investigated and sanctioned by criminal law.

2.2.2 Trafficking in Human Beings

Trafficking in human beings is part of a worldwide illegal market which has also established itself in Germany. The structures of organised crime have become increasingly recognisable in this area. Trafficking in human beings is an offence which only comes to light when controlled and is usually not discovered in the absence of police activity, as the willingness to report this crime is estimated to be very slight. The victims, almost all female, originate from economically poor countries, sometimes with problematic, socio-structural conditions. The number of cases of trafficking in human beings recorded by the

police pursuant to sections 181, 180b of the Criminal Code (StGB) shows an increase between 1993 and 1996, followed by a slight trend towards decline.

The difficulties in collecting evidence which go hand in hand with offences in human trafficking often lead to the cases being dropped or lead to convictions for lesser offences which are, however, easier to prove. Therefore, all that often remains of charges of trafficking in human beings is a conviction for encouragement of prostitution, pursuant to section 180a of the Criminal Code or for smuggling human beings pursuant to sections 92a and 92b of the Foreigners Act. The chances of a conviction and a sanctioning of the perpetrators can be improved by testimonial evidence of the victims in court; this requires the protection and the care of victims willing to make a statement by qualified and appropriately equipped and trained advisory offices. Counterstrategies can, however, only be successful in the long term through international co-operation. Since a large number of the offenders commit their crimes in the Central and East European countries, the corresponding co-operation with these countries takes priority.

2.3 Property Offences

According to police crime statistics (PCS) from 1999, every second offence recorded by the police is a theft and every twelfth is a form of fraud. The two types of offence together make up almost two thirds of the total crime recorded in the PCS (excluding road traffic offences). Increases or decreases in recorded crime in general can therefore mainly be traced back to changes in the number of property offences. Since the late nineteen-nineties, the number of various property offences registered, in particular shoplifting and vehicle-related crimes, has been on the decline. This development in particular is responsible for a decrease in the overall crime rate. The decline in the number of thefts recorded in the statistics has a greater impact on the falling crime rate than the noticeable parallel increase in fraud, in particular that connected with non-cash financial transactions.

Interviews with victims confirm this decline in theft. This development appeared at an earlier point in time and with greater intensity in the old Länder. A higher number of shoplifting offences per 100,000 of the population are registered in the new Länder than in the old Länder (Länder of former West Germany). The incidence of such crime did not begin to decline in this area until 1999, in part as a consequence of improved stock security. Vehicle-related crime constitutes a further noticeable difference between the Länder in East and West Germany (N.B. whereas the Länder have remained unchanged in West Germany since reunification, the new Länder in East Germany were formerly geographical regions in the GDR which were sub-divided into smaller governmental districts): although there has been a year-on-year decline in the offence rates of such crimes in both regions since mid-1995, the figures for the eastern Länder are still twice as high.

Shoplifting offences account for a noticeably high 40% of all petty thefts recorded in the PCS. This type of offence is committed by pensioners, women and children as well as by young males. In most cases, the suspects were not previously known to the police. A cautious estimate places the figures for crimes discovered at approximately 5-10%; the success rate in solving such cases is more than 90%. This is not surprising, as in most cases, the identity of the perpetrator is clear at the time the crime is detected. The disclosure rate, as well as the conviction of certain groups of perpetrators (e.g. asylum seekers, children, etc.), is highly dependent on the criteria applied by security staff for identifying suspects. Shoplifting is an offence which is detected only in as much as controls take place; the higher the level of control, the higher the number of (recorded) offences.

The decline in cases of shoplifting recorded by the police, which has been observed in recent years, can be traced back principally to the increased use of electronic security devices. Security technology acts as a deterrent in various ways: the electronic mechanism remains enigmatic and shoppers often assume all goods are electronically secured, even if no device is visible. At the same time, the security device sends a

clearer message of the vendor's claim to ownership of the goods. Such clearly visible preventive measures probably provide a more effective protection of goods than would be provided by criminal prosecution of this offence, which is committed by a large number of occasional shoplifters. Also in the case of children and juveniles, research has shown that shoplifting does not constitute the first offence in a criminal career, but rather is generally a temporary episode.

The PCS show that cases of theft committed under aggravated circumstances generally involve the stealing of valuables left in vehicles as well as of car parts (27%) and a large number bicycles (21%). However, such types of theft have become less common in recent years, sometimes to a striking extent. For example, the number of car thefts recorded in the PCS fell by 59% between 1993 and 1999. This is due to the increased use of electronic ignition blocking systems. Increased security technology (car alarms, coding of car radios, etc) has also substantially reduced theft from vehicles. Fortunately, the number of house burglaries has also declined, while the clear-up rate has risen slightly. These crimes are generally committed during the hours of darkness and – insofar as resolved cases can be taken as an indicator – they are committed by perpetrators from the local area. Prevention could be improved by more widespread use of security technology if it were possible to provide funding of the concomitant private investments for the general population (e.g. by means of insurance bonuses) which would render crime protection less dependent on the financial status of individual households. The permanent decrease in the number of cases concerning bicycle thefts is also a consequence of the improved communal (e.g. bicycle parking areas) and private (e.g. stable bicycle locks) prevention efforts. However, the changed insurance conditions could have influenced the willingness to report such crimes.

The PCS statistics on financial damage show that the 2.8 million thefts committed in 1999 caused less total damage than the 680,370 cases of fraud (4.3 billion compared to 4.8 billion). Each individual crime against estate results in substantial damage. Various types of fraud in relation to goods, as well as fraud using non-cash means of payment which have been unlawfully obtained, are particularly widespread.

However, the almost 150,000 cases of fare-dodgers, that is passengers caught travelling on public transport without a ticket and recorded by the police, should be seen in a different light. These offences, which are only detected as a result of controls, represent approximately 20% of all property offences. The perpetrators come from all social strata. A proportion of the cases of non-payment of fares are due to negligence. The increased fare always charged as a penalty for breach of contract is therefore an appropriate reaction.

The criminal prosecution of property offences is structured in the same way as the prosecution of offences generally. However, theft under aggravated circumstances is slightly more often punished with imprisonment. In contrast, those convicted of fraud and breach of trust tend to be sentenced to pay fines or to be given suspended prison sentences. The preferred use of non-custodial sanctions (in particular fines) in criminal prosecution over imprisonment appears to have proved its worth.

2.4 Economic Crime

Information about the extent of economic crime and the damage it causes is almost exclusively limited to the area of reported crime, i.e. the offences which come to the attention of the criminal prosecution. Unlike the offences of classic property crimes, which are usually reported by private individuals, a large proportion of economic crimes are discovered during investigations carried out by the criminal prosecution authorities. For this reason, the extent of and changes in the recording of economic crime are, to a very large extent, dependent on the focuses of and the allocation of funding for the controlling and criminal prosecution authorities. Conclusions about unreported crimes using the structure and development of recorded crimes are therefore barely possible. It is assumed that the field of unrecorded crime is consid-

erably larger. Clearly therefore, information is to a large extent incomplete, as traditional methods are unable to bring unreported crime to light.

Economic crime is a qualitative rather than a quantitative problem. Only 1.7% of all offences known to the police in the Federal Republic of Germany in 1999 were economic crimes. The proportion of officially known economic crimes may be relatively small even when the fact is taken into consideration that the Police Crime Statistics do not record any economic crimes which are investigated and prosecuted by specialised public prosecutor's offices and the financial authorities without police involvement.

However, this comparatively low number of registered cases stands in contrast to an "extraordinarily high quality of crime potential". A small number of accused suspects harm a large number of victims and cause – in comparison with classic property crime – a relatively high level of damage: while economic crime accounted for 2% of the cases recorded by the police in 1999, it accounted for more than 60% of all damage recorded by the police, i.e. more than the entire damage caused by classic property crime. Clearly a more serious result than material damage is, potentially, damage of a non-material kind in the form of copy-cat crimes, crimes committed in the wake of other crimes, and remote effects to name but a few, as well as potential and actual damage to health. A further negative effect is possibly a decline in the public's confidence in the existing economic and social order.

The procedure employed by public prosecutors in "special economic crime proceedings" differs from that employed elsewhere: the rates of cases dropped due to lack of evidence are considerably higher than in other fields of crime. The number of prosecutions and the proportion of cases dropped, due to reasons according to which the prosecution is discretionary for the public prosecutor, are lower. The complexity of procedures, the difficulties in proving cases, the right of suspects to lodge a complaint are some of the reasons for the fact that such proceedings are more often dropped than in cases dealing with "classic" property crimes with comparatively less damage. Sanctioning practices for economic crime cannot be assessed in the majority of cases because of the lack of complex statistical information.

The high level of material damage and the severity of the non-material damage caused by economic crime mean protection against such offences is particularly important. Appropriate prevention is dependent on the earliest, most reliable and complete identification of the patterns of crime and the manner in which the crimes are committed. Economic crime has until now been treated incompletely or in an insufficiently differentiated way in official crime and criminal justice statistics. This data has only limited application as a planning and information tool. For this reason, improvement in the insufficient basis of data is necessary. The preparation of a situation report on economic crime, for the first time in the Federal Republic, planned for the reporting year 2000, represents an initial step by the police towards achieving this goal. It remains to be seen, to what extent comparable situation reports by public prosecutors and courts are necessary to enable more efficient identification and removal of difficulties in the criminal prosecution of economic crime.

To a large extent, economic crime is a crime which is only detected when controlled. Therefore, an improvement in the requirements for both effective prevention and efficient use of criminal law is necessary. An assessment of the situation concerning the use of preventive measures by the police brought to light scope for action which has not been taken advantage of so far. The project currently being developed by the Federal Criminal Police Office and the State Criminal Police Offices of the Länder entitled "The Fight Against Economic Crime for the Purposes of Prevention" ("Bekämpfung der Wirtschaftskriminalität im Vorfeld") is therefore an important step in the right direction. The aim of this project is to identify, in the early stages, the development of offences and fraudulent actions committed.

Preventive legal sanctions must be complemented to a large extent by further preventive measures which do not fall within the scope of penal law. Consciousness-raising, self-monitoring and self-protection

measures, must be given the same priority as the intensive use of opportunities provided by civil and police legislation. Moreover, it will be necessary to investigate the way in which incentives for illegal economic activity can be changed and the way in which preventive controls in the private sector can be encouraged and how the costs to the perpetrator resulting from illegal activity can be increased.

The general and specific preventive aims which are the subject of the law related to economic offences cannot be achieved without an effective and consistent application of criminal law. Thus, practitioners in this field demand, in particular, improved and more intense training and further qualification measures, a more intense exchange of experiences between various authorities, improved material and human resources, prioritisation in the area of criminal prosecution, more intense international co-operation and less complex mutual assistance in law enforcement between nations.

2.5 Corruption

Corruption is not a legal term, different scientific disciplines use the term in different ways. The discussion, from the point of view of criminal law, concentrates on bribery offences and includes under the term corruption not only the bribing of parliamentary representatives but also taking and offering a bribe and the acceptance and granting of advantages. There are no empirically-based data in Germany on the extent and structure of corruption and the damage it causes. Assumptions about the scope of corruption and its increase are not empirically founded due to the lack of reliable representative data. There is a sizeable difference between assumptions about corruption which are based on projections from individual cases and, in part, on surveys and the "reality" of officially registered corruption. For this reason there is a correspondingly grave need for research which could help bring to light the legal reality of the phenomenon of corruption.

Both the absolute and relative number of cases of the acceptance and granting of advantages known to the police is small. 2,952 offences were recorded in the Federal Republic of Germany in 1999; these represented 0.05% of all cases reported to the police. In addition, there were 63 cases of taking or offering a bribe in business transactions. The slight increase in the number of cases recorded by the police in recent years does not necessarily suggest an increase in corruption. Corruption is a crime which is only detected when controlled, i.e. the number of cases which come to light is dependent on the human and material resources used in investigations. It is plausible to assume that an increased level of sensitivity to corruption and the increase in recent years in attempts to find appropriate measures to fight corruption have led to an increase in the number of cases coming to light.

Corruption offences involve perpetrators on both sides, those who grant advantages and those who accept them. In such offences, which do not include the immediate involvement of a victim, there is no injured party to perceive of and to report the crime. For this reason, it is widely believed in the fields of politics, public life and parts of academia that there is an above average amount of unreported crime of this sort. However, there is a lack of empirical research into undisclosed corruption offences which could underscore these assumptions. Insofar as such research has been carried out in certain areas, the thesis that corruption is widespread has not been clearly proven.

The harm to society caused by corruption can be seen in the high levels of material and non-material damage it produces. High levels of material damage are produced in the area of building administration in particular. The projection based on cases which have come to light, according to which, damages to the tune of DM 10 billion occur in this sector alone every year, is a supposition which is based on assumptions about the extent of unreported corruption. Non-material damage is seen, not only in the distortion of competition for tenders, but also, above all, in the loss of confidence in decisions which are independent of considerations from outside the sector, namely by authorities. Survey results show that a considerable portion of citizens consider civil servants to be open to bribery.

The opportunities provided by criminal law to combat corruption are limited; here, too, prevention is given priority over repression. For this reason, organisational structures and decision-making processes in business and administration must be formed in such a way that they are as unsusceptible to corruption as possible. This can be achieved, for example, by taking account of the two-person rule when awarding contracts, by creating a personnel division between calls for and acceptances of tenders, by making use of the rotation principle for contract placing authorities, by temporarily suspending companies convicted of corruption offences or by establishing a central corruption register. Within this context, the introduction of disclosure and information requirements in cases where corruption is expected is indispensable. Furthermore, the exclusion of tax deductibility of kickbacks and bribes is of no little importance.

Containment of corruption is a matter of people's attitudes. In order to underpin an anti-corruption culture throughout society, those in positions of leadership in the state, business and society must be an example to others. Corruption within such circles not only undermines confidence in state and political institutions but also, above all, destroys the credibility of the state's efforts to combat corruption to a high degree.

2.6 Environmental Crime

Legal environmental protection has the aim of protecting human life and human health as well as the basic fundamentals of life such as water, air and soil as parts of the human habitat and that of other parts of nature (including plants and animals).

First and foremost, environmental protection should be guaranteed by environmental administrative law. As criminal law cannot forbid acts which are allowed under administrative law, criminal law is dependent on administrative law and administrative practice. It serves to render environmental administrative law more effective and thus has a supporting and complementary function. Even when the term environmental crime is defined very loosely, less than 1% of all crimes recorded by the police fall into this category. In general, it is supposed that there is a large amount of unreported environmental crime and there is no empirically supported data about the size and structure of it.

The number of cases recorded by the police depends to a great extent on levels of vigilance and the frequency of reporting. It is assumed that the amount of unreported environmental crime means such crimes recorded by the police appear for the most part to be simple and petty offences. In the nineteen-eighties, the most common environmental offence was water contamination, but since 1991, the most common crime of this kind recorded by the police has been endangerment of the environment by waste disposal (section 326 of the Criminal Code); in 1999 these accounted for 71%. This pattern of crime is of course affected by various levels of visibility and selective reporting.

The number of offences against the environment recorded by the police has increased considerably since statistical records began; not until 1999 did the absolute and relative figures fall for the first time. As detection of environmental crime is broadly dependent on vigilance, a change in the willingness to report and pursue it can be assumed to be the reason for this development.

Environmental offences are connected with particular professional positions. Therefore, it is hardly surprising that male adults over the age of 30 are clearly over-represented among the number of recorded suspects.

Of 100 suspects under investigation for crimes and misdemeanours (not including traffic offences) in 1998, 41 were charged; for crimes against the environment this figure was only 28. The latest results available regarding investigations carried out by public prosecutors into environmental crimes – figures which refer to 1998 although at the moment for only six Länder – show, seen in total, that an above-average number of investigations into environmental crimes were dropped because of insufficient evidence.

This low probability of charges being pressed finds its continuation in a relatively low level of sanctions. Despite a considerable amount of pre-selection by public prosecutors, courts of law not only dismiss an above-average number of cases but they also impose penalties at the lower end of the statutory range. This determination of penalties is a result of the fact that those environmental crimes which lead to conviction are not very serious.

The fact that it is principally less serious crimes which are registered could be due to differing terms of reference among the agencies of environmental administration on the one hand and to the same phenomenon among criminal prosecution authorities on the other. There also appear to be enforcement deficits in the application and implementation of environmental criminal law.

These enforcement deficits are in part due to deficits in perception. This could be remedied by making the necessary improvements to technological equipment, to the organisational conditions (intensification of prioritisation by and exchange of experiences between the prosecuting authorities) and specialisation (specialist knowledge among judges and public prosecutors). On the other hand, insofar as the problems are ones of assigning responsibility and providing proof, which have their roots in the way in which labour is divided in modern business and the lack of transparency in the internal operations of companies, general questions of the system's reaction to corporate crime from the standpoint of criminal law are raised.

International instruments of law must be advanced and, insofar as they already exist, they must be applied so that a neutral effect of the competitiveness concerning environmental protection is guaranteed.

The opportunities provided by legal environmental protection are limited. Improvements in environmental protection must be achieved first and foremost by non-penal means, that is by further developing environmental administrative law.

2.7 Internet Crime

As social activities such as communication, information and trade increasingly shift to the Internet, the opportunities to commit crimes using the Internet increase. On the one hand, this leads to completely new forms of crime, on the other hand the Internet provides unprecedented opportunities to foster classic crime by modern means. When considering Internet crime, a basic differentiation is made between offences which involve the use of the Internet as a virtual tool with which to pursue criminal acts and offences which involve attacks on the Internet and the services it provides or those which use the Internet to launch attacks on the security, reliability and integrity of data. The amount of Internet crime registered as part of the police crime reporting service "Crime Connected with Information and Communication Technology" is on the increase. The PCS do not include differentiated recording of crimes in which the Internet and/or its services were used as a communication means or as a means to commit a crime.

In general, there can be assumed to be a large amount of unreported Internet crime, however there is as yet no research into unreported crime. Thus it is impossible to make a reliable statement about the quantitative significance of this phenomenon based on statistics. In any case, such a statement could only be approximate because of the international dimension of the Internet. In addition, many of the offences for which the Internet is used are crimes which are only detected through vigilance. Thus the increase in the number of cases investigated in 1999 can be traced back principally to the first-time registration due to the activities of the "Central Office for the Incident-Unrelated Monitoring of Data Networks" ("Zentralstelle für anlassunabhängige Recherchen in Datennetzen") of the Federal Criminal Police Office.

In view of the expected increase in the number of Internet users, the continued commercialisation of the Internet and the increase in police activities to bring undetected crime to light, increasing numbers of cases of Internet crime and the appearance of new criminal activities must be expected in the coming

years. The majority of these offences may be made up of the dissemination of illegal images and text. Also, criminals make use of the divergences between the legal systems of different nations to avoid criminal prosecution or at least to hinder this considerably. This is where international co-operation based on requests for mutual assistance often reaches its limitations.

The work of the criminal prosecution and security authorities in the area of prevention is supported by the task force "Secure Internet" which was set up by the Federal Minister of the Interior in February 2000. Its aim is to promote security consciousness in dealings with the Internet and to reduce its criminal abuse by using IT security systems.

2.8 Drugs and Crime

In recent decades, the discussion of the risks and dangers involved in the production, distribution and consumption of psychoactive substances has, in Germany as in other countries, concentrated on illegal substances and preparations such as heroin, cocaine, cannabis and synthetic products.

In Germany, cannabis, in the form of hashish or marijuana, has occupied the top position among illegal drugs for decades, in particular among young people. Representative surveys show this has also remained the case in recent years. It can also be seen that a proportion of young people have no feeling of wrongdoing in this context. The proportion of illegal drug consumers is manifestly lower than that for alcohol. In surveys carried out in 1997, 25% of young people between the ages of 18 and 24 questioned in the old Länder said they had taken cannabis at some point in their life, in the new Länder the corresponding figure was 12%. In the twelve-month period before the survey, the figure was 13% in the West and 6% in the East.

The consumption of other illegal drugs whose introduction is not recent, such as heroin, cocaine and amphetamines, has not risen above a value of 1% to 3% in recent years among those questioned. Among the so-called designer drugs, ecstasy is increasing in significance as a dangerous, fashionable drug among young people.

The most widespread and, at the same time, legal intoxicating drug in Germany is alcohol. In an international comparison of alcohol consumption as a whole (pure alcohol in all kinds of alcoholic drinks) in the year 2000, Germany occupied joint fourth position with Ireland, although the amount consumed – 10.8 litres per person was only slightly below the top amount consumed by the people of Luxembourg. Consumption has fallen slightly since 1990.

The tendency in society to underestimate the dangers of alcohol consumption and alcohol abuse can be partly explained by the fact that our cultural tradition leads us to alcoholic drinks being considered primarily as semi-luxury items, or, in various forms in different regions, as foodstuffs. In other countries, including some in Europe, with a stronger puritanical or Muslim tradition, alcohol is fundamentally disapproved of and the consumption of or trade in alcohol and alcoholic drinks stands under threat of criminal prosecution. Thus, socio-cultural contexts and cultural traditions should not be left unconsidered in the debate on drugs.

Alcohol and crime are very closely connected, with traffic offences and violent crimes standing out in particular. Thus, for example, in a special analysis of the year 1999, some 41% of all crime suspects over the age of 21 under investigation by the police on charges of manslaughter were under the influence of alcohol. However, the complex of causes leading to the crime are rarely so undifferentiated.

Initially it must be stated, that unlike alcohol, almost all forms of contact with illegal drugs are threatened with punishment under the Narcotics Law (BtMG). The number of narcotics offences in the sense of violations of the BtMG recorded by the police have shown a steady increase. On an average of five years

respectively, the figures for the second half of the 1980s were around 85,000, in the first half of the 1990s the figure was approximately 130,000 and in the last period 209,000.

In the case of hard drugs, the issue of drugs and crime is primarily concerned with so-called direct and indirect offences related to the procurement of drugs. These procurement crimes included first and foremost so-called direct procurement crimes, for example the theft of drugs themselves or robbery. Apart from this it includes familiar forms of crime, such as forgery of prescriptions, or the burglary of pharmacies. In the case of indirect procurement crime, perpetrators procure items, for example by theft, burglary, robbery or extortion or by receiving stolen goods or fraud, which can be exchanged for drugs or the sale of which provides the offender with the funds to purchase drugs. In 1999 alone, 7.5% of all crimes cleared up by the police (not including traffic offences and those involving national security) were ascribed to persons (in total 83,000) who were known to be consumers of hard drugs. In the case of shoplifting with aggravated circumstances, this figure was 40% and for robbery for the obtainment of narcotics it was 54%.

The number of first-offending consumers of hard drugs has risen quite steadily since the mid 1980s. The latest figure was around 21,000.

The number of drug-related deaths in the year 2000 exceeded 2,000, almost reaching the highest yearly figure of 2,100 cases in 1991. Specific calculations of the age structure of drugs deaths have shown a disproportionate, continuous increase in the number of those over thirty since the beginning of the 1990s, and that trend has continued in recent years. Therefore, it seems justified to suppose this is not due to new developments, but rather to the long-term consequences of drug abuse, in particular of the gradual consequences of intravenous drug use in unhygienic conditions, including cases of HIV and hepatitis infection.

Current knowledge indicates that no new additions to the Narcotics Law are necessary to control drug-related crime, nor are any further increases in the range of punishment available necessary to combat illegal drug production, smuggling and trafficking using the means pursuant to the criminal prosecution system.

A distinction must be made in the case of drug consumption. The Narcotics Law already allows the consumption of small amounts for immediate individual use to go unpunished. In addition, the deferment of punishment before imprisonment or following partial completion of the sentence – provided the drug addict enters therapy while in custody (known by the slogan "Therapy instead of Punishment") has proved to be a successful means of re-socialising drugs offenders.

Practical experience and the opinions of all specialists agree that there is a group of people among long-term consumers of hard drugs who simply can no longer be influenced by the usual means of repression and prevention. Therefore, new concepts must be tested in this sector, not only to put an end to the social destitution and health risks suffered by these people, but also to break the cycle of addiction and crime. This includes the establishment of consumption premises in which addicts can take advantage of aid and counselling, and pilot projects in the heroin-supported treatment on long-term opiate addicts who cannot (or can no longer) be reached by other projects. A careful evaluation of such concepts is required.

2.9 Organised Crime

To date in Germany and on an international level there is no generally accepted definition of organised crime. The ideas held by the public, practitioners, politicians and academics differ, sometimes fundamentally, sometimes in their details, with regard to the most important characteristics that lay behind this term as it is used by all. This fact renders agreement about the registration of certain phenomena difficult, but it also makes a consensus on the measures necessary to control offences and groups of offenders in the area of organised crime very difficult to achieve.

However, it can be stated that all forms of organised crime are characterised by hermetic exclusion of outsiders, in particular of all state institutions of control. This regularly leads to objective difficulties in obtaining reliable information about the real structures, working methods and connections between those involved. In the USA and in Italy, partial success has been achieved in breaking the conspiracy of silence using technical surveillance methods and by engaging high-level informers ("Pentiti"). However, experts disagree in their evaluation of the medium and long-term chances of success in achieving a crucial weakening of the central groups of organised crime.

Organised crime cannot simply be described and explained by its feature of being "organised", as all criminal communities, more or less permanent groups, close-knit gangs and lastly those groups described under legislation as criminal associations require a high level of organisation to commit crimes and series of crimes if living a life of crime and/or making a living from crime is to be successful in the long-term and financially profitable. As may be expected, constant pressure from the police and other authorities means organised precautions to assure continued protection from discovery, from the disclosure of evidence leading to conviction and punishment are widespread.

Violence as a latent "option", which is also always readily available at short notice, is an integral part of all forms of organised crime. Despite the widespread popular opinion to the contrary, violence is actually used relatively rarely, not least of all because it causes unrest in the milieu, a state of affairs which is incompatible with the basically mercantile orientation of the operations of such criminals. Violence against individuals occurs in general not for emotional reasons, but as punishment in a system of justice parallel to the state judicial authorities. Lethal clashes between groups have, in the perception of the protagonists themselves, the character of wars, with such aims as the staking out of spheres of influence or the hostile takeover of power within another group. Until now, such phenomena have been registered only rarely in Germany.

Empirical research into organised crime has so far only been able to be carried out in Germany in isolated cases and on a small scale, generally since the 1960s. This research shows that the typical form of organised crime in Germany is one in which networks of professionally organised criminals, both Germans and foreigners from many countries, proceed in a very business-like way, rationally planning all aspects of the crime in advance. These range from reconnaissance of the scene of the operation, the precise logistics of the execution of the crime and the utilisation of the profits, to the legal protection from the institutions of criminal prosecution for the case that a protagonist should be caught during the execution of the crime. These groups are without exception organised on a national or international level.

However, there are also indications that criminal groups with strictly hierarchical structures, along the lines of the syndicates or the modern "mafia", have taken hold in Germany. In this context, police investigations and analyses make urgent mention of Italian groups (Cosa Nostra, 'Ndrangheta) as well as Turkish and Kosovo Albanian structures, in which outsiders are easily recognisable by their language or dialect. These groups also have access to the necessary local contacts to their compatriots from within the long-standing immigrant community. Organised crime of the syndicate type should not be falsely understood to be a bureaucratic, formal or even strictly military organisation. These groups still function via close-knit but very flexible structures which are secured via personal, clan-type or ethnic connections and which are generally able to reform and regenerate themselves quickly following the intervention of the state.

Police and public prosecutors make use of the 1991 Common Directives of the Ministers for Justice and Internal Affairs of the Länder in Prosecuting Organised Crime and other legal instruments, in particular on a Länder level. These provide a basis for standardised investigation procedures in Germany, in particular by naming indicators for recognising evidence of behaviour associated with organised crime.

Since 1991, the Federal Criminal Police Office, in collaboration with authorities and departments of central government and the Länder, has produced the "Situation Reports on Organised Crime". These show that the criminal groups included in the reports are to a large degree made up of members of various nationalities, that their plans and their crimes are international in dimension, that they cause billions of marks' worth of damage and finally that the profits they generate are reinvested in legal markets.

Notwithstanding the changes to legislation in recent years, the opportunities for an effective criminal prosecution of such offences are not yet judged to be satisfactory by all practitioners.

New initiatives from the European Union and the United Nations have the aim of issuing clear provisions for types of behaviour which are to be penalised under national laws, and in particular to include in national legislation the investigative methods necessary to combat organised crime and to bring about better co-ordination of investigations.

2.10 Politically Motivated Crime

Politically motivated crime usually takes place along social lines of conflict which the existing institutions have been unable to check or to regulate. Thus, for example, in the early 1970s it became evident that the prevalent economic structures and consumerism were incompatible with the principles of ecological sustainability. This area of conflict vulcanised the environmental movement, on whose margins extreme left-wing positions found a new basis. The entry of the environmental movement into the parliamentary political system due to the Green Party has reduced illegal activities in the field, although the fundamental problems continue to exist and continue to lead to new crisis situations.

Today, new areas of conflict are emerging, due to the process of globalisation, of technological developments in microelectronics and as a result of the new global migration of people. Many people fear their standards of living are threatened by rationalisation and international competition. Therefore, they fear competition on the labour market, support an end to immigration and are inclined to see their own nationality as a guarantee of social security. Such fears arose as a result of the dramatic increase in the immigration of ethnic Germans from Eastern Europe and of asylum seekers between 1988 and 1993, which in many places led to a strain on resources. Thus, the issue of "asylum" became a central theme in the political competition between parties and therefore also in the public eye, while attempts to find solutions to the problem were not successful. This offered unprecedented opportunities to extreme right-wing parties and violent youths. The xenophobic movement which spread as a result was able to take particular hold in the new Länder. In this region, the ideological vacuum left by the collapse of communism came together with the pressures associated with that change. In particular there were problems on the labour market, which made xenophobia and nationalism appear attractive, especially because they appeared to offer new, exclusive sources of solidarity and privilege. As a result, classical right-wing extremism, which until then had been considered nothing more than a relic from the first half of the twentieth century, gained new followers. This development culminated in the xenophobic violence and arson attacks of 1992 to 1994. As this wave of violence began to recede, the public lost interest in the issue, despite the fact that xenophobic and extreme right-wing violence have retained the same stable base since 1995 and temporarily reached a new high in the second half of 2000.

For the most part, politically motivated violence develops within the context of general social conflicts. This fact is reflected in the corresponding attitudes and opinions which reach far beyond the circle of extremist and violent groups. Although these attitudes are not directly expressed in a readiness to act illegally or violently, they form an important resounding board and factor of legitimation for those groups which are prepared to use violence. The general spread of xenophobic attitudes can be illustrated by statistics on social attitudes toward migrants: the proportion of people flatly opposed to all kinds of immigration rose slightly in West Germany from 18% (1991) to 19% (1996), in East Germany it increased in

the same period from 26% to 36%. Fears of competition appear to be significantly greater in East Germany than in the West. Many of those questioned insisted immigrants must definitively adapt their lifestyles to accommodate "German" customs, consider (forced) repatriation to be appropriate in times when "jobs are scarce", want a ban on political activity for foreigners and oppose marriages of bi-national couples. Between 1994 and 1996, this group increased from 25% to 35% (in West Germany from 24% to 33%, in East Germany from 32% to 44%).

The level of education of those questioned had a great influence on their tendency to have xenophobic attitudes; a higher level of education appears to make dealing with aspects of foreign cultures easier. The age of those questioned also had an important influence. The older the respondents are, the greater their difficulties in accepting a multi-ethnic society. In addition, the degree of xenophobic attitudes decreases with increasing levels of urbanisation. In both West and East Germany, negative attitudes towards foreigners were stronger in rural areas than in urban areas. A comparison between European nations shows that Germany is neither characterised by a particularly vehement tendency to discriminate against ethnic minorities, nor can it be considered one of those nations known for their particularly tolerant and open-minded attitude to foreigners.

The Police Crime Statistics for State Security (PKS-S), which are a record of extreme right-wing, xenophobic and anti-Semitic offences, provide a basis for an overview of the development of such crimes in the 1980s and 90s. The statistics show a dramatic increase of an average of approximately 1,300 offences per year in the 1980s to an average of approximately 4,000 per year in the 1990s. The Criminal Police Incident-Based Reporting Service for State Security (KPMD-S), which gives more detailed information, has seen a clear drop in the number of cases since 1994, following a peak phase from 1992 and 1993, with 6,336 and 6,721 cases respectively. Since 1995 the number of cases has levelled off at approximately 2,000 to 3,000 per year. Since February 1994, the monthly figures have remained constantly below 400 offences, and since April 1995, constantly below 300. In August 2000 a new peak in the number of registered xenophobic offences and incidences of violence was reached, which declined again in the last quarter of 2000. This increase in the summer of 2000 may be connected with the intensive discussion on right-wing extremism and xenophobia which took place in the early summer of 2000. The public debate increased the sensitivity within society and may also have provoked the extreme right-wing scene to act. The level of discussion was heightened by an explosives attack in Dusseldorf which was initially put down to right-wing extremists. The decrease in the number of offences after the summer corresponds with the regular yearly developments, although it remained at a higher level.

The increased danger from xenophobic acts of violence to immigrants and persons perceived to be different in East Germany becomes clear when the relative frequency of xenophobic acts of violence is compared in east and west. A special analysis carried out by the Criminological Research Institute of Lower Saxony shows for the year 1999 that the "risk of victimisation" run by foreigners in the new Länder was considerably higher than in the old Länder, although in both parts of the country a decline in this risk from the north to the south was observed, which was probably due to the different economic conditions.

Since 1994, more detailed figures have been available for anti-Semitic crimes (KPMD-S). Between 1994 and 1996, the figures for such crimes dropped from 1,366 to 846 per year. Since then the number has fluctuated at around 800 to 900 crimes yearly. In August 2000, the number of anti-Semitic crimes also temporarily increased. This figure also declined again in the fourth quarter of that year. This increase should possibly be seen in the context of the public debate following two attacks on synagogues in summer 2000. The focus lies in the area of the instigation of racial hatred (including the denial of the Holocaust) as well as propaganda crimes (use of Nazi symbols) – this is the case for 70% to 90% of anti-Semitic offences yearly. Criminal damage and acts of desecration of Jewish cemeteries, which are typical anti-Semitic crimes, are considerably lower (approx. 10-20%). The proportion of violent crimes against individuals

(including bodily injury, manslaughter and attempted manslaughter, threat) is generally below 5% of the crime rate. However, this can clearly not be taken as an all-clear signal: verbal humiliation has always preceded actual persecution.

According to empirical research, those suspected of committing xenophobic offences were predominantly juveniles and young adults: more than 50% were between the ages of 15 and 20, approximately one quarter of all suspects were aged between 20 and 30. Gender-specific differences were also clearly defined: over 90% of all suspects in both research groups were male. In particular, xenophobic and right-wing extremist violence was perpetrated almost exclusively by young males. Of course, this does not indicate that xenophobia and right-wing extremism are purely male phenomena. Rather, various research has shown that women certainly play a part in extreme right-wing parties as well as xenophobic and right-wing youth groups, and that xenophobic attitudes can be as highly prevalent among women as among men.

The proportion of unemployed among suspects is, at 22%, twice as high as in the corresponding age groups (approx 12%). However, it is not necessary to experience unemployment directly. It is rather the fear of unemployment in the perpetrators' environment which correlates with the corresponding xenophobic attitudes, actions and/or group memberships.

As xenophobia and right-wing extremism, have become problems, the question arises as to what extent similar attitudes are prevalent in the Civil Service sector. This sector not only functions as an example, its actions - or lack of them -, in particular within the framework of the administration of intervention, have wide-ranging consequences. This is primarily true for institutions which "embody" the state's monopoly on power, i.e. in particular the police, the armed forces, the penal system and the "Abschiebebewahrsam" (prisons for illegal or rejected immigrants). Although there are so far no reliable data on the number and type of incidents, individual reports and investigations point towards the existence of this problem. For example, Amnesty International documented such cases in its reports of 1995 and 2000. No comprehensive studies by social scientists exist in this field. A qualitative study on the police force does exist, which was initiated by the Police Staff College in Hiltrup on behalf of the Standing Conference of the Interior Ministers and Senators of the Länder. Of course, it was impossible to include quantitative estimates, but it was possible to show that the risk of police wrongdoing vis-à-vis foreign suspects increases wherever there is strong, permanent pressure (for example in the centres of drug and cigarette trafficking or illegal immigration). Local studies exist for Frankfurt am Main and Hamburg, and show similar results. No studies are known to exist for the prison service.

According to a report by the parliamentary commissioner for the Armed Forces, a series of incidents took place within the forces, in particular in the years 1997 and 1998, which gave cause to assume a xenophobic and, in part, extreme right-wing background. In 1998, 319 "particular incidents" were reported, in 1999 135 and in 2000 196, of which 185 were propaganda offences. 81% of the suspects were conscripts doing their basic military service or volunteers on term contracts. However, until now, no academic studies of the corresponding attitudes, values and preparedness to act upon them have been carried out among soldiers and officers.

To date no continuous, systematic police statistics into the number of deaths resulting from right-wing violence have been kept. Until the end of 2000, the State Criminal Police Offices of the Länder only considered those cases to be offences against the security of the state in which an extremist motive (an attack on the fundamental constitutional order of the country) for the offence has definitively been proven. On 14 September 2000, the 'Tagesspiegel' and 'Frankfurter Rundschau' national papers published a list of fatalities which, according to journalists' research, included all those whose death could be traced back to crimes committed out of right-wing motives (including hatred of those perceived as different,

foreign or "inferior") and those crimes committed by a person or persons who could be considered to belong to such circles and no other motive could be found. The cases gathered in this way were not always recorded by the police as homicides, but also as bodily injury resulting in death or as breaches of the peace.

Police practice in categorising offences and offenders in the statistics on state security has until now been too restrictive. This is because it was oriented towards a concept of extremism and left no room for the consideration of racist and social Darwinist elements, i.e. those which are in conscious contradiction of the objective value order of the Constitution, with human dignity as its prime value. The Central and the Länder governments therefore agreed to introduce a new system of defining "politically motivated crime" from 1 January 2001. The new system allows, among other things, a representation not only of extremist offences, but also of "politically motivated crime", "politically motivated violence" and "hate crimes".

Developments in the area of left-wing extremist offences as a whole can only be described for the years 1980 to 1999 in the light of the PKS-S data. These data indicate that there has been a downward trend in the number of extreme left-wing offences over the past twenty years. A reduction took place in the 1980s from an average of approx. 2,100 offences per year to an average of approximately 1,800 yearly in the 1990s, although it is clear that the escalation of certain conflict situations (e.g. the anti-runway protest Startbahn West, Wackersdorf, nuclear waste transports etc.) increased the number of offences considerably in individual years. However, since the mid 1990s there have been increased indications that the number of direct confrontations between right-wing and left-wing extremist groups are on the rise. Thus, offences committed by right-wing extremists against left-wing extremists rose from 124 in 1996 to 192 in 1997, although they have since then declined again. The number of offences committed by left-wing and extreme left-wing groups against right-wing extremists grew from 123 in 1996 to 523 in 1998 and 746 in 1999. However, it must be considered that the level of crime reporting among left-wing extremists is very low because of their basic attitude of enmity towards the police and the state which influences the registration of offences committed against members of the extreme left-wing scene. Figures for the year 2000 show that the number of left-wing extremist violent crimes rose by 16% compared to the previous year. The majority of violent, militant actions can be attributed to autonomous groups with an anarchist orientation. Within the traditional fields of action of the "New Left" movement, that is anti-imperialism, anti-militarism and anti-fascism, these groups orient themselves towards the areas of political conflict and concern of predominantly non-violent protest movements. They latch their militant actions onto the campaigns and demonstrations of such movements. According to information from the Office for the Protection of the Constitution, there is also another set of violent left-wing extremist groups, calling itself the "Anti-imperialist Resistance". The violent activities of both these groupings include, for example, campaigns against EU government conferences and summit meetings, against world economic conferences and the transport of nuclear waste.

A large proportion of the total number of the investigated offences committed since 1997 by foreign extremist groups in Germany can be attributed to the activities of the Kurdistan Workers Party (PKK). Thus, a monthly analysis of offence statistics reveal that such crimes peaked in months in which actions against the arrest and conviction of the PKK's leader took place.

The developments of the 1990s indicate that xenophobia is likely to constitute a problem in the long term. Worldwide migration not only leads to assimilation or to the creation of new patterns of culture, it also leads to identity politics which dramatise actual or imaginary ethnic origins and use them as an argument in economic competition and "post-modern arbitrariness". In this way, tendencies to resort to violence (which may develop, for example, because of personal family background, and which are reinforced by those media which are specialised in the portrayal of violence and which finally become the criteria for choosing circles of association for juveniles and young adults) are given ideological legitimacy. A dual

strategy must be applied here. On the one hand, Germany's universalistic and cosmopolitan orientation against tendencies towards exclusion and xenophobia must be defended, verbal instances of contempt for human dignity and physical violence must be proscribed and pursued. On the other hand, the feelings of economic and cultural threat perceived by parts of the population must be taken seriously.

As cultural heterogeneity in German society grows due to the creation of different lifestyles and cultural patterns, it becomes increasingly important to support educational practice which can promote the ability of children and juveniles to see themselves and the world through the eyes of others. Young people should learn from an early age that conflicts can be settled without resorting to violence, and that all people have equal rights regardless of their ethnic or cultural background. This also requires that they realise that humankind is currently moving towards a global society and that this will lead to an increased need for both human and environmental solidarity.

2.11 Immigration and Crime

2.11.1 Immigrants without a German Passport (Non-German Citizens)

The connection between immigration and crime comes into being primarily because of the residency status, the security of which is dependent on where the immigrants have originally come from. This results in limitations in living conditions and unclear perspectives for the future which can have an effect not only on integration but also on crime levels. Immigrants who do not have a German passport accounted for 8.9% of the resident population in Germany at the end of the 1990s. The majority of them are people who are employed in Germany and their relatives, originating, from Turkey, from the other countries of the European Union and from the former Yugoslavia; every second foreigner has already lived in Germany for more than 10 years.

The immigrants without a German passport (foreigners) are – in comparison to the German population – younger on average, with a higher proportion of men. They are less highly qualified than Germans, a considerably higher percentage of them are unemployed and they tend to live more in urban than in rural areas. According to the results of criminological research, these social characteristics are positively correlated with crime. Therefore, a higher level of crime among the immigrant population is to be expected, based on these statistically ascertained social characteristics alone.

According to a survey carried out in Bavaria, the likelihood of becoming a victim of crime is higher among non-German immigrants than it is among Germans who live here. Since it is not recorded in the PCS whether a victim is German or non-German, it cannot yet be stated for certain, whether this figure applies to the whole of the Federal Republic. In future the planned recording of the nationality of offence-victims by the PCS will be an improvement.

When immigrants are asked whether they have committed a crime themselves, and if the answer is yes, what crime, the answers they give hardly differ from those of a German, except for a slightly higher incidence of violent crime. Nevertheless, in comparison to their percentage of the population, immigrants are noticeably higher represented in the PCS figures for recorded crime suspects. A comparison with Germans by relating the percentage of immigrant offenders to the number of foreigners in the population nonetheless involves certain methodological problems, as tourists, for example, illegal immigrants and other groups are included in the figures for crime suspects. These non-Germans who are not part of the resident population (because they are not registered or need not register), and for whom there exist no data as a whole, distort the figures to the detriment of immigrants. Therefore, whereas it is possible to calculate for Germans the number of crime suspects per 100,000 of the population, this has not been feasible for immigrants without a German passport. Comparisons to German crime suspects which provide us with useful information are therefore made more difficult.

For a long time, the comparison between the crime rate shown in the PCS for immigrants and the level of crime represented in the criminal prosecution statistics, appeared to speak in favour of an over-registration by the police, which was absorbed by the courts at a later date. Thus, in 1990, the courts convicted only every fourth immigrant accused of a crime, in comparison to every third German. Since 1994, the gap between Germans and immigrants accused and convicted of a crime has narrowed; about 30% of all of those accused respectively in 1998 were convicted (in the old Länder). The reasons for this are not known and necessitate comparative studies of the criminal prosecution of Germans and non-Germans.

The type of crime committed is influenced by the residency status. Employees and school pupils or students among immigrants show similar patterns of behaviour to their German counterparts; however, in general, they are more often reported for violent acts. Persons seeking asylum and illegal immigrants are prosecuted primarily for offences against the Foreigners' Act, but also for shoplifting. Tourists and the group of people who come under the heading "other non-German crime suspects" in the PCS, which also includes, among others, asylum seekers who have not been granted asylum and who are still awaiting a decision with regards to their residency status and refugees, are also over-proportionally represented for the same crimes; however, people from the group "other" are also often suspected of drug dealing.

The committing of offences is strongly dependent on the residency status and the consequences this has for opportunities for integration. This applies in particular to second or third generation immigrants. Developments in the 1990s, in particular, point to an increase in problems of integration, especially when we look at the decline in the educational achievement among pupils of non-German origin. The forming of groups along ethnical lines, which reinforce their members' feeling of solidarity through a disassociation from and conflicts with other ethnic groups can also be observed. This is increasingly true for the young generation of ethnic Germans from abroad returning to Germany since reunification. Prevention can be achieved through increased integration and, in particular through encouragement in the area of education, with the aim of increasing the number of higher school qualifications.

2.11.2 Immigrants with a German Passport (Ethnic Germans from Abroad)

In contrast to commonly held belief, neither a particularly serious, nor a particularly widespread level of crime among ethnic Germans from abroad exists in Germany, when compared to the crime level among the old-established population. Of course, very precise statements cannot be made. This partly has to do with the fact that appropriate distinctive features are not registered in the police records concerning suspects of crimes which have been cleared up. Partially, however, there is a lack of exactly classifiable figures for the population, meaning that even when dealing with statements about crime suspects, no exact figures for incrimination can be calculated (per 100,000 of the corresponding groups in the population).

Ethnic Germans from abroad have, before and after reunification, also enjoyed particular attention among specialists and in the public eye. In this case, referred to are ethnic Germans from particular areas, above all from the former Soviet Union, who were able to come to Germany having been awarded the corresponding status of "Spätaussiedler" after the Federal Act for the Adjustment of the Laws Regulating Consequences of War ("Kriegsfolgenbereinigungsgesetz") came into force on 1 January 1993. Here we are talking about almost 1.3 million people. From 1998 to 2000 the figure was around 300,000 ethnic Germans from abroad and their relatives.

From a legal perspective, ethnic Germans from abroad immigrating to Germany since reunification have the advantage over other immigrants, in that they receive German citizenship immediately. From a socio-psychological point of view, however, they face similar experiences to all immigrants from distant countries and cultures; the natives of the country of immigration tend to regard them as strangers who have to

be looked at with a degree of reservation, and in some cases even openly rejected. This tension between the one status and the other presents considerable challenges to immigrants when becoming accustomed to life in German society.

As far as can be ascertained, most ethnic Germans from abroad immigrating to Germany since reunification come to terms with the difficulties which they are confronted with. Sooner or later they cope with integration, just like many immigrant groups before them who have been accepted in Germany in their millions since the end of the Second World War.

A small portion of the ethnic Germans from abroad immigrating to Germany since reunification run into considerable, sometimes also long-term problems. Crime is only one of the several resulting problems or “ways of finding a solution”, which can be one of the consequences of immigration. More recent official figures from selected Länder and complementary scientific surveys go as far as to show that it is mostly juveniles and young males who are susceptible to this kind of development, in particular those who belong to the “last wave” of ethnic Germans from abroad who came to Germany from the mid 1990s on.

Among these young people, problems emerge in adapting to the transition from their culture of origin to the new society they enter into. This is especially the case, when the problems they have adapting coincide with rejection from their environment, including that from non-Germans who came to Germany at an earlier date. However, in this age group we are also talking about a minority of youths who become seriously or repeatedly delinquent because of these conflicts. This minority are becoming ever more significant in youth prison, because there they contribute to the mutual segregation of groups of prisoners along ethnic lines. In the case of youth ethnic Germans from abroad immigrating to Germany since reunification however, interviews with school pupils and other surveys do not generally show excessive rates of incidence here in comparison to other Germans or to non-Germans.

The conflicts and problems of adapting correspond very well phenomenologically with what science and practice have found to be characteristic about the young generation of other immigrant groups, also those outside of Germany. Criminological theories, such as anomy theory and the theory of cultural conflict, offer good approaches for understanding the phenomenon and, at the same time, for developing appropriate ways of remedy. This gives rise to the hope that the problems are essentially of a temporary nature and that the state, the economy and society will be able to combat them effectively with special propositions for integration.

2.11.3 Smugglers and the Smuggling of Illegal Immigrants

The number of seizures of persons proved to have been smuggled over the borders increased continuously until 1998, but sank in 1999 by a good 11% in the face of a total increase in arrests of smugglers. Those smuggled were mainly citizens from the Federal Republic of Yugoslavia, from Afghanistan, Rumania, Iraq, Sri Lanka, India and China. The majority of smuggling offences still occur, as ever, on foot over the green border; since the end of 1998, about half of all people smuggled in, who were recorded by the police, were seized at the borders to the Czech Republic and to Austria. In this case, the spectrum of perpetrators ranges from individuals who bring family members illegally over the border to large criminal organisations who boast a highly organised division of labour and who operate internationally. In 1999, a total of 8,290 cases were recorded in the PCS due to suspicion of having smuggled in foreigners, pursuant to sections 92a and 92b of the Foreigners Act (AuslG).

Particularly conspicuous is the increase, in 1999, in the number of cases of qualified smuggling, pursuant to section 92b of the Foreigners Act. The increasing pressure of immigration as well as the reinforcement of the security and control measures of the border police have meant that more and more people who want to enter the country turn to smuggling organisations, in order to get to Germany. This has opened up a lucrative field of operation for internationally organised groups of smugglers which has developed into

a profitable alternative to drug dealing. It will be one of the main topics facing the German and European authorities responsible for security in the future. The destruction of recognised structures will only be possible if states co-operate closely outside their own individual borders, all along the important smuggling routes.

The German courts' sanctioning practice in the area of smuggling offences is notable. According to one research project of the Central Institute of Criminology, the number of convictions for smuggling crimes, pursuant to §§ 92a and 92b of the Foreigners Act increased between 1996 and 1998. At the same time, a trend towards sentencing those caught to imprisonment without probation can be observed, i.e. the courts are certainly prepared to react to the phenomenon of smuggling offences with drastic measures. In 1998, around 64% of all court decisions sentenced the perpetrators to a prison sentence and 30% of these were without the chance for probation. Also the level of punishment can be expected to be above average.

2.12 The Depiction of Violence in the Media and Copycat Crimes

A highly controversial debate is currently taking place about the effect of violence as it is depicted in the media. Here, a basic distinction must be made between the depiction of real violence (media reports about acts of violence, hostage situations, war and unrest) and fictitious violence (the depiction of violence in horror films, action films and computer games). Various studies have come to the conclusion that a fundamental relationship exists between the consumption of depicted violence in the media and aggression against other school pupils and property as well as petty crime. Cinema films and videos play a bigger role than television here. Of course, it remains to be shown how this correlation is to be explained, i.e. whether violence can be traced back to the exposure to cinema films or whether personal desires for stimulation give rise to both the media consumption as well as the readiness to resort to violence.

With regard to real violence, it could be noticed that a great deal of copycat crimes occurred in connection with riots in Great Britain in the nineteen-eighties and within the context of xenophobically motivated violence in Germany in the nineteen-nineties. Therefore, the depiction of real violence in media reporting can trigger copycat crimes. This may be due to the fact that there are some youths who, because of the conditions they live in and because of their social environment, already have a xenophobic or racist attitude and tend to use violence. When the subject of immigrants is a prominent issue in the media, xenophobic violence is also reported and can become a model for copycat riots.

All in all, the discussion about the effects caused by the depiction of violence in the media are distinguished by the dominance of two assumptions. On the one hand, conclusions are drawn about the effects that violent contents in the media have on the viewer. On the other hand, in public and especially in the field of politics, a general statement about the effects of the portrayal of violence is demanded. The connection between recipient and medium and the way the one affects the other is so complex that scientifically tenable propositions can only be arrived at for certain populations in exactly defined situations. The question of the effects the media has on people must therefore be observed within the context of the emotional biography, the situation in life and the subjective way a person comes to terms with this. Accordingly, the correlation between the depiction of violence in the media and acts of violence in reality can vary substantially. Individual cases show that violence and delinquent acts can be triggered off in specific situations when psychological traumas already exist. They might also be triggered off by watching a film. Biographies and living circumstances which have been affected in some way by exposure to violence are therefore the focus of further research work.

Finally, the depiction of violence in the media only provides a clear contribution to the emergence of violence in situations where a person already perceives his day-to-day life to be aggressive and where a basis for violence has already been achieved. The media alone can hardly turn someone into a criminal; the effects of the media are however to be added to the list of many factors which can be seen as causes of

violence. There are several reasons to suppose that, at the present time, an increasing number of people are living a life in which violence seems to be, for those involved, a reasonable or satisfactory solution; a process whereby different youth groups associated with particular 'scenes' emerge can be observed, in which specific, aggressive emotions and violence are cultivated.

3 Reactions of the Criminal Law System

3.1 Criminal Proceedings and Reactions of the Criminal Law System

The judiciary's task is to provide a final, legal assessment of a committed offence with respect to its criminal nature and an appropriate reaction to it. Police suspicion of a criminal act can often not be substantiated following an examination by the public prosecutor's office and the courts. The public prosecutor discontinues preliminary investigations of every fourth suspect recorded by the police due to a lack of sufficient probability that the suspect will be convicted. However, a selection process also takes place from the standpoint of an appropriate reaction by the criminal law system. In cases of less severe and petty crimes, a formal conviction and punishment can be refrained from under certain circumstances. On many occasions, the dropping of a case – with or without conditions – is an appropriate reaction which serves the preventive aims of criminal law.

3.2 Preliminary Investigation by the Public Prosecutor's Office

It is the public prosecutor's duty to actually and legally assess whether there is sufficient evidence of a criminal act, and to take the final decision in the preliminary investigation. This decision can be to drop the case due to a lack of sufficient probability that the suspect will be convicted, or to bring charges and/or an application for a so-called penal order (i.e. an imposition of a sanction via a summary written procedure at local court level), or to react pursuant to criminal law beneath the level of a formal charge or conviction (discontinuance at the discretion of the prosecution with or without conditions). The structures for dealing with cases have changed considerably since 1981. The public prosecutor has compensated for the growing crime rate by nearly doubling the rate of discretionary non-prosecution (1998: 47%). Accordingly, the number of charges and penal orders has decreased.

More than half of all preliminary investigation proceedings against known suspects are currently dropped due to the lack of sufficient evidence or due to reasons of discretionary prosecution. More than 25% are passed on to the courts by means of a charge/application for penal orders. The remaining cases are settled in other ways, e.g. by passing them on to another public prosecutor or by referring them for private prosecution. The number of charges and/or applications for penal orders and the number of discontinuances at the prosecutor's discretion are almost the same. That means that the principle of discretionary prosecution is no longer an exception, and the pressing of charges along the basic principle of mandatory prosecution is no longer the rule. Reactions of the criminal law system below the threshold of a formal conviction prevail. The number of preliminary investigation proceedings settled by the public prosecutor has increased – in accordance with the increase in offences recorded by the police. However, this growing number of cases was not passed on to the courts, but compensated by a growing number of discontinuances at the discretion of the public prosecutor. Among proceedings settled by pressing charges or through an application for a penal order there was a shift of emphasis towards the more efficient option of summary proceedings without trial. A conviction substantiated in a hearing before a deciding court has become the exception.

3.3 Court Proceedings

Of all persons sanctioned, 50% are currently sanctioned informally, i.e. pursuant to sections 153 et seq German Code of Criminal Procedure (StPO), sections 45, 47 Youth Court Law (JGG), sections 29 par. 5 Narcotics Law (BtMG) in connection with section 153b StPO, sections 31a, 37, 38 par 2 BtMG, by drop-

ping the case with or without conditions, and this occurs despite sufficient evidence. The large scope for variation in assessment granted by these norms leads to considerable regional differences, the extent of which cannot be explained by either the features of the offence or by those of the offender(s). Further problems include the fact that there are no opportunities for legal monitoring and examination of the termination of cases at the discretion of the prosecutor, as well as the lack of transparency in this. Therefore, some experts are calling for decriminalisation under the aspect of substantive law for certain kinds of offences, in which either the need for punishment is not regularly confirmed or in which a sufficient number of control alternatives within civil and administrative law are available. Furthermore, they demand an additional reinforcement of the legal position of the accused and the injured party.

The majority of all convictions are now dealt with in written summary proceedings without trial. This leads to the fact that, in cases where the suspect has to serve imprisonment for failure to pay a fine or due to a revocation of probation, imprisonment is imposed even though the criminal case never went to trial. However, in the case of a subsequent decision on the revocation of probation, a hearing of the convict and the public prosecutor - as a rule in person - must take place pursuant to section 453 StPO.

Youth court law (YCL) and general criminal law (Penal Code) provide for two different systems of legal consequences: YCL provides for better opportunities for a differentiated, educational reaction than general criminal law, in order to prevent recidivism. YCL applies to all juveniles, i.e. persons from 14 to less than 18 years of age, without exception. The youth court, which also has jurisdiction of so-called young adults, i.e. persons from 18 to less than 21 years of age, must decide whether to administer YCL or the general (adult) Penal Code. Section 105 of the YCL allows for the handling of young adults in the "juvenile way" if the following conditions are applicable alternatively or cumulatively: (1) The young adult shows personal or behavioural characteristics typical for a juvenile stage of personality development; (2) the offence is a typical juvenile misconduct in terms of motivation, circumstances or peculiarities of the act. There is, again, some discussion going on as to whether young adults should be treated, as a rule, like adults or like juveniles. In some 60 percent of cases generally, and up to 90 percent in cases of personal crimes, judges apply YCL reactions because, should doubts exist, this offers better opportunities for considering the living situation and the problems of young people.

The development of sanctioning practices within criminal law relating to young offenders is characterised by a shift away from formal sanctions towards informal reactions which avoid conviction (diversion), a shift away from custodial towards non-custodial sanctions, as well as an increasing application of supporting, assisting and restorative measures which take both the idea of education and of re-socialisation into consideration, as well as that of indemnification, i.e. the justified interests of the victims.

In general criminal law too, sanctioning practice is increasingly characterised by the application of informal and non-custodial formal sanctions. With a share of more than 80%, fines are by far the most frequent form of punishment.

These new non-custodial measures, in particular reparation and 'offender-victim mediation' are reactions which highlight the offenders' responsibility for the consequences of their actions. They are appropriate for considering the justified interests of the victim. However, the potential of these new non-custodial measures has been insufficiently exploited. The same is true of the use of community service work to avoid sentencing offenders to periods of imprisonment for failure to pay a fine. The reasons for this deficit in implementation must be investigated, and appropriate measures must be taken. However, in practice, the legal possibilities of a fine are only partially exploited. The majority of fines imposed do not exceed 30 times the fixed daily rate. The same applies to the amounts set as the daily rates, with respect to both the upper and the lower limit.

Since the beginning of the 1990s, the absolute number of offenders sentenced to immediate imprisonment or youth custody has increased significantly. The number of offenders sentenced to unconditional imprisonment in 1998 was approx. 27% higher than in 1990, in the case of unconditional youth custodies this was as high as 45%. From a statistical point of view, this may be a consequence of the increasing application of diversion instead of a conviction in cases of less severe and petty crimes. However, the statistics do not tell us whether this increase reflects a change in the practice of determining the severity of prosecution or a change in the severity of the crime committed. Together with the changes in the composition of the prison population, this increase has led to an aggravation of the problems of imprisonment. The aim of imprisonment, i.e. to enable prisoners to lead a socially responsible life without committing crimes in the future, is becoming more and more difficult to achieve. Therefore, the main objective should be to reduce the number of prisoners. Compared to other European countries, the Federal Republic of Germany sentences an above-average number of people to imprisonment. From the point of view of reducing recidivism, relevant research results demonstrate that imprisonment is no more efficient than non-custodial sanctions, and, taking into consideration the principle that imprisonment should be a last resort, the reasons for the imprisonment rate, which is above average compared to other European countries, must be examined in detail.

As far as general criminal law is concerned, the high, and in recent years increasing proportion of imprisonment for failure to pay a fine, as well as the positive effects of community service, which have failed to live up to expectations, signal that this remains an unsolved problem. In the currently valid sanctioning system of general criminal law, the courts do not have sufficient scope for influencing in an appropriate preventive way the area of less severe and petty crimes. Therefore, the further development of the sanctioning system under the aspects of criminal law, and, in particular, the further development of alternatives to custodial sanctions, remain on the agenda.

In addition to punishment – and in the case of offenders who lack criminal responsibility due to reasons of insanity or other mental disturbances instead of punishment – a so-called measure ("Maßregel") can be imposed by criminal court decision. The oldest measure is the security measure of preventive detention ("Sicherungsverwahrung") introduced in 1933 as part of the then pan-European social defence movement. Measures may aim primarily at securing the public from dangerous offenders or their main objective may be correcting/treating offenders with special needs or problems. Measures implying deprivation of liberty are rare, however they have been applied significantly more often in the past few decades, in particular in the form of the committal of drug-addicted offenders to institutions for withdrawal treatment. Among non-custodial measures, removal of an offender's driving licence is still the most common. In 1998, driving licences were taken from more than 50% of people sentenced for traffic offences.

The overwhelming majority of proceedings of the first instance are settled by local courts in a relatively short period of time: four out of five proceedings are completed within six months.

Approximately 50% of all prisoners awaiting trial are not sentenced to unconditional imprisonment, i.e. they experience imprisonment in a form which is most hostile to re-socialisation, namely in the form of pre-trial detention. This is hardly compatible with the objectives of a reform-oriented legislation which indeed puts emphasis on the preventive principle of criminal law.

Rational crime policies depend on statistical data which provides a basis for actions which consider the consequences in advance. The current statistics for criminal justice do not sufficiently comply with these requirements. Thus, as far as the implementation of modern tendencies in crime policies is concerned, such as 'offender-victim mediation' (TOA - Täter-Opfer Ausgleich) or diversion, the statistics for criminal justice show either only qualitative information (diversion) or, with respect to 'offender-victim mediation' not even that. The different categories of offences and offenders to which these legal consequences apply

remain completely unrepresented in the statistics. Therefore, the further development of the system of statistics of criminal justice is indispensable as is, in particular, a consideration of the new opportunities for reaction (TOA) as well as the forms of settlement (diversion, summary proceedings without trial), which prevail as far as quantity is concerned.

3.4 Offender-Victim Mediation (TOA)

Reparation of damage, conflict resolution between individual persons or families, groups and social associations, as well as, under optimum circumstances, permanent reconciliation between the parties involved, belong to those elements which are characteristic of 'offender-victim mediation', even if not all of them must necessarily be there in every case. All societies and states have had model examples which go far back in history, but there are also encouraging examples from more recent times, above all from New Zealand, Australia, the US and Canada. These examples must be evaluated and adapted to the German situation.

By means of offender-victim mediation in the field of criminal law, large, modern societies also have a generally appropriate opportunity to settle the conflicts which have led to criminal offences, or conflicts arising after criminal offences, outside of formal criminal proceedings and in a way which is satisfactory for all parties involved.

The core of offender-victim mediation programmes is a confrontation between victim and offender within the framework of a personal, sometimes repeated encounter. Normally, a specially trained person acts as a mediator in this encounter, the so-called conflict settler or mediator. The basic methodological requirements are that this mediator remains neutral, i.e. that he or she guarantees strict adherence to the rules of conduct; furthermore, that he or she acts as a catalyst to promote the process of dealing with each other, without guiding this process in a certain direction as far as its subject matter is concerned.

If a productive settlement is achieved, the process ends with an assessment of the initially (possibly massively) different views of the incident, with an assessment of the emotional situations of victim and offender, including a settlement of financial claims, and finally with an agreement upon the precise form of reparation, including possible payment of damages and/or compensation for suffering. In practice, the victim is often satisfied with the first stages and finally considers an honest apology to be sufficient, because of the impressions he or she has gained through direct contact with the offender, and because of a regained feeling of personal security. This can be seen, in particular, with and among juveniles.

With respect to criminal justice, offender-victim mediation constitutes an innovative form of dealing with delinquency and crime. Since 1990, several reform acts have been passed within youth court law, general criminal law and the law of criminal procedure, which expressly provide for offender-victim mediation, or also for a mere reparation of damages. Moreover, they encourage a more frequent use of this practice, from pre-trial, through trial to the final judgement. Even imprisonment offers opportunities of this kind, however, under comparatively stricter conditions.

Offender-victim mediation cannot be seen as an isolated element in the more recent reforms of legal policy and practice. Rather, it forms part of various national and international trends. Within general criminal law and youth court law, these tendencies are a shift away from both a retaliative type of criminal justice, and merely preventive criminal justice towards "compensatory" criminal justice. In this connection, the English term 'restorative justice' has been used most frequently so far in Germany, due to the lack of a precise German term. Within the law as a whole, starting from family law, to labour, economic and public law (and in particular environmental law), there is a distinct tendency towards "mediation", for which even special training courses at universities and among lawyers have recently been initiated.

Victims and offenders are often highly willing to participate in the conflict resolution procedure, which is mainly initiated by the public prosecutor's office and settled by conflict resolution associations. According to the evaluation of the so-called TOA statistics, more than 60% of all proceedings relate to crimes of violence, mainly personal injury, threatening another person with a crime, robbery and extortion with the use of force, deprivation of liberty and coercion. Some 90 out of 100 offenders and 80 of 100 victims are willing to take part in conversation, following initiation of the corresponding contact and, if necessary, following consultancy. In approx. 70% of these conversations, the participants stay the distance, so to speak, and achieve a settlement of the conflict and/or the claims which is judged to be good or at least acceptable by both parties. The offenders regularly fulfil the agreed terms, however they do not always achieve complete fulfilment. According to current surveys, less than 5% of all cases have to be considered as having completely failed.

In cases which are so severe that penal order (after summary proceedings without trial) or sanctions after a trial with main proceedings seem to be indispensable, a TOA settlement or victim compensation within criminal law for adults can also lead to a conviction with the verdict of guilt, to a detrainment from punishment and/or to a mitigation of the sentence. The public prosecutor and the court can consider the intensive efforts for compensating for damage, including the corresponding performances rendered by the offender, as being mitigating, even if the victim is not prepared to participate in a conflict settlement procedure, whereby the victim in this respect does not have to give any reasons, and by no means a justification, under legal and social practice.

Initial empirical follow-up surveys of the criminal history on the part of offenders have shown positive results; i.e. the recidivism rates after VOM are either lower in comparison than those resulting from other reactions and/or sanctions under criminal law, or equally high in other cases. Up to now, however, there have been no cases in which they have been higher.

Taking into consideration all criminal proceedings undertaken in Germany annually, all forms of reparation and offender-victim mediation constitute only a marginal phenomenon, despite current developments. In the light of current knowledge, considerably more cases could be suitable for reparation or offender-victim mediation. The "out-of-court settlement of the consequences of criminal acts" ("Außergerichtlicher Tausgleich") which is in substance similar to TOA in Germany within both youth court law and general criminal law is far more developed in Austria.

3.5 Suspended Sentence, Probation Order, Probation Service, Social Services of Criminal Justice

The suspended sentence of imprisonment is the second most commonly applied sanction under general criminal law. Of the 666,000 persons who were finally convicted in 1999, approximately 80% were sentenced to pay a fine, for approx. 14% their sentence was suspended and approx. 6% were given an unconditional prison sentence, which normally leads to the offender being actually imprisoned.

In Germany, the suspended sentence and/or conditional sentence has developed into a criminal sanction in its own right. From a technical legal standpoint, it is still carried out as a modification of the initially imposed custodial sentence. On average, more than two thirds of all custodial sentences are unconditionally suspended on probation. In the case of short custodial sentences, the suspension rate is particularly high. In 1999, the figure was 77% for imprisonment sentences of up to six months. But also in the case of sentences of between one and two years, which is the upper limit for a suspension, the courts still suspended 65% in 1999. Among young offenders between 18 and 21, the quota special was, at 80% of sentences suspended, clearly higher than among adults, where the figure was 68%

In theory and practice, the suspension of a sentence on probation in a narrower sense means that the court imposes conditions and instructions which include for the convicted person considerable duties or restric-

tions during the period of probation of between two and five years. In 1999, approx. 58,000 conditions (65%) and approx. 46,000 instructions (51%) were imposed.

The placement of a convicted person under probationary supervision and his or her allocation to a probation officer as a probationer or client, represents, according to the law, nothing more than a special form of instruction, which is aimed at preventing the convicted person from committing further offences. In its substance, the so-called assistance rendered to a probationer by the probation officer is the most intensive embodiment of an independent suspension of a sentence on probation, oriented towards special prevention.

As part of youth court law, a suspension of youth imprisonment on probation is obligatorily connected with assistance rendered to a probationer; under general criminal law, a subordination is legally the rule, if a sentence of more than nine months is suspended and if the convicted person has not yet reached the age of 27.

In addition to the primary suspension of custody, contained directly in the sentence, a so-called conditional discharge from imprisonment is possible as a secondary suspension of custody, which means that a prison sentence or youth imprisonment is suspended after the offender has served part of the sentence. The subordination to assistance rendered to probationers then follows the same rules.

In the long term, the probation order shows a continuously increasing tendency. At the end of 1999, almost 2,400 probation officers employed on a full-time basis rendered assistance to approx. 165,000 probationers. The increase in the use of this sanction has clearly been brought about by probationers who were convicted under general criminal law. On the other hand, during recent years the courts have applied this sanction increasingly to offenders leaving prison or to those who were already under probation, sometimes several times. This means that the probation service clearly has to deal with more difficult cases than in the initial phase in the 1950s. Personal problems and social deficits combine, meaning that the level of assistance to be rendered is high and demanding.

Together with the criminal courts, which are responsible for the (above all, final) decisions, probation officers have met this challenge creatively. A period of probation is regarded as having been successful, if the case is terminated by a remission of sentence, upon expiry of the probationary period or by setting aside the judgement. A failure is constituted by a revocation due to violations of the conditions and instructions or due to the committing of new crimes by the probationer. Taking into consideration all probations, the probation rate thus defined amounted, on average, to 70% in 1997. The success rate of those with previous convictions, and who had furthermore been subject to previous probation assistance (approx. 64% in 1999 compared to 45% in 1965), is almost as high. Contrary to all criminological expectations, it is precisely that clientele who were assessed as being "difficult" who have "proved themselves" to a high degree. In the opinion of many criminologists, this speaks in favour of a justification for the upper limit of suspendable prison sentences being raised.

As far as the concept is concerned, assistance rendered to probationers by the probation service falls under the so-called social services of criminal justice, together with the assistance concerning the supervision of conduct at the corresponding offices, the court aid service and social work and/or social pedagogy in prison.

The unification of Europe creates new demands on the entire field, above all, since the execution or service of sentence in another country, which, among other things, is based on European treaties, is used only sparingly at the present time, but is becoming more and more important.

3.6 Imprisonment and Execution of Measures of Prevention and Reform

The term imprisonment ("Strafvollzug") refers to the execution of criminal sanctions involving the deprivation of liberty, from the time the convicted offender enters the penal institution to begin serving his or her prison sentence until the time of his or her conditional or final release. Thus, imprisonment includes determinate imprisonment, life imprisonment, military detention and youth imprisonment.

The execution of measures with deprivation of liberty in addition to or independent of prison sentences ("Maßregelvollzug" – measures of prevention and reform) refers to those serious offenders who pose a considerable risk for public security or who are in need of being treated by special therapeutic means, i.e. placement in a psychiatric hospital, placement in an alcohol or drug addict treatment institution for educative purposes and preventive detention. The short term detention of juvenile delinquents of up to four weeks has a relatively high level of practical significance in youth court law, however, as it is officially described as a so-called 'disciplinary measure for young offenders' rather than a criminal prison sentence, it does not belong in the category of imprisonment.

Under the terms of law, other criminal sanctions, most importantly fines and suspended prison sentences, are "enforced" rather than "executed". However, they can develop into problems of execution, if a fine is not paid, and can be neither forcibly collected nor settled alternatively by means of so-called community service work. In such a case, imprisonment for failure to pay the fine becomes unavoidable (no less than 60,000 cases in 1999). In the case of suspended sentences, the revocation of the suspension of a prison sentence, in part or in whole, is decisive. The scope of this cannot be determined statistically. In a partial group of some 165,000 persons under probationary supervision there were approximately 13,000 revocations in the last year for which reports exist, namely 1997.

By a count on the cut-off date of 31 March 2000, approximately 51,000 finally convicted and sentenced criminals were inmates in general penal institutions, of whom 3,800 had been imprisoned for failure to pay a fine. The rights and obligations are regulated by the 1976 Prison Act. On the same date, there were some 7,000 inmates in juvenile prisons, which are regulated by the Youth Court Law and supplementary administrative regulations.

Preventive detention as a security measure for dangerous habitual offenders is executed as part of what is termed imprisonment and is therefore carried out in general penal institutions under the responsibility of the justice administration, and it is finally regulated by the Prison Act. At the end of March 2000, there were 238 detainees. This indicates that courts make extremely reticent use of this type of sanction.

Placement in a psychiatric hospital as a security and treatment measure which is also intended for perpetrators who committed their crime or crimes under conditions where they lacked criminal responsibility due to insanity or mental disturbance or when such criminal responsibility was diminished, is executed in special clinics or clinic departments (and/or separate penal institutions) operated by the authorities of the Länder responsible for social and health administration. The Prison Act forms only the general basis for the execution of these measures and for court procedures. Detailed regulations of treatment, security and order, relaxation of regime and other topics fall under the responsibility of Länder laws. In general, the same is true for placement in a special institution as a disciplinary measure aimed at alcoholic and drug-dependent criminals. At the end of December 1999, approximately 6,200 persons were in reformatory detention outside the prison system, of whom 3,900 were inmates of psychiatric hospitals, approximately 1,700 in special institutions and some 600 were detained in one form or another under a preliminary detention order issued by the investigating judge or the trial court.

Among the other types of deprivation of liberty, detention pending trial has particular qualitative and quantitative significance. In March 2000 approximately 18,000 were in detention pending trial, of whom

some 900 were juveniles between the ages of 14 and 18, 2,200 were young adults between the ages of 18 and 21, and some 15,000 were adults at the age of 21 or above.

The execution of prison sentences including imprisonment, juvenile imprisonment, preventive detention, detention pending trial and other forms of detention (e.g. detention pending deportation) currently takes place in 220 independent correctional institutions, to which a large number of dependent branches or other institutions, some of which have specific tasks (such as the treating of drug addicts, administration of short-term release and of semi-liberty or half-way imprisonment prior to final release).

The number of women in the prison system is relatively small, which is mainly due to the types of offences they commit. In March 2000, approximately 3,500 women were in prison (just over 4% of all prisoners and detainees), of whom some 900 were being detained pending trial, approximately 2,100 were in adult imprisonment and some 200 were in juvenile imprisonment. However, there were no women in preventive detention. At the end of 1999, some 330 women were detained in psychiatric hospitals or drug and alcohol treatment institutions (just over 5% of all inmates in institutions for the execution of measures).

Drug dependent prisoners pose a particular challenge to the prison system. Although the Narcotics Law allows for the possibility of a suspension of sentence in favour of intensive drug addiction therapy (so-called 'Therapy instead of Punishment'), it is assumed that approximately 30% of current prisoners are drug dependant or even severe drug addicts.

Particular challenges for staff are posed by non-German prisoners, in particular because of the language problem. However, this is especially the case in day-to-day contacts when these inmates come from countries where the customs, religious convictions and practices, for example dietary regulations, are very different to those prevalent in Germany – not to mention ethnic, political and other internal tensions between groups themselves. An initial increase in the number of non-Germans (foreign nationals and displaced persons) was particularly noticeable among detainees pending trial, however, as is to be expected, this trend is to a certain extent slowly crossing over to the normal prison service. In 1999, non-Germans made up approximately 26% of inmates in the institutions of the old Länder, the corresponding figure in the institutions of the new Länder was approximately 10%.

In total, the prison system is currently once again the subject of widespread over-crowding, as was the case in the early and mid 1980s. In practice, organisational problems can occur already when 80% of the official capacity of the prison system is reached (so-called space capacity). In March 2000, with only one single exception, the institutions of all Länder were filled to more than 100% capacity, in some cases reaching 120%.

The Prison Act is built on the principle of imprisonment with the aim of resocialization. Although the situation has changed considerably since the Law came into effect on 1 January 1977, which is due not only to the reasons mentioned above, and although the realisation of the principles of execution of sentences and of individual regulations is more difficult than before, there is no immediate reason to abandon the principle of corrective imprisonment.

A relaxation of the conditions of imprisonment, i.e. day release, short-term release, work release and prison leave of up to 21 days, have proved to be integral and successful parts of the concept of correction, despite widespread opinions to the contrary. Failure rates are between 1% and 3% principally concern late return or violations of rules and instructions. Offences committed during relaxations of imprisonment are statistically rare exceptions, however, as the task of the prison system is also to provide security for the public, they must be taken seriously without exception and they must be seen as a reason to re-evaluate the relaxation criteria.

Corrective treatment during imprisonment includes not only such measures as alphabetization, basic school education, academic, adult, vocational and further education, but also practical elements for daily life such as social training. In special cases therapy in its narrower sense may also be considered.

Institutions of social therapy represent a particularly important form of available therapy. The 1998 Law against Sex Offences and other Dangerous Crimes increased the importance of these institutions. The 1,000 places currently available are not enough to cover the acute present need, and will certainly not be sufficient to cover the expected requirements in the future. This means the Länder will face considerable challenges in this area.

Subsequent to a decision by the Federal Constitutional Court, remuneration for prison labour was newly regulated at the end of 2000.

3.7 Prison Release and Aid for Discharged Prisoners

The Prison Act includes numerous individual regulations aimed at securing the release of prisoners as early as possible and preparing their integration or re-integration into society.

Resocialisation, the aim of the prison system, which is externally characterised by a life without crime, does not only concern prisoners, although its formulation is tailored to such individuals. But resocialisation is also in the most basic interests of the state and society, as it means further damage and harm through crime can be reduced or prevented. To take this argument to its logical conclusion, it can be said that from the point of view of citizens, the prevention of a return to crime by discharged prisoners is an effective form of victim protection.

Even in the modern system of corrective imprisonment, there are of course some prisoners who are not realistically accessible to resocialisation, or at least not within a short space of time. The Prison Act makes appropriate provision for this fact, not least because of the general regulation that a prison sentence has among its aims that of protecting general society from further offences while the sentence is being served.

Conditional release of prisoners after serving part of their sentence is particularly important for the resocialisation of those sentenced to long prison terms. This suspension of a remaining term of imprisonment is an important tool of modern crime policy when those given early release are placed under probationary supervision. The same is true for the interruption of non-punitive measures for dealing with serious offenders with a view to reformation of the offender and protection of the public, i.e. preventive detention, detention in a psychiatric hospital or an alcohol or drug treatment institution.

Since 1998, the consideration of the security of the public has been expressly emphasised in the German Criminal Code's regulation of conditional release, and it is incumbent on the sentence execution chambers of the regional courts to consider this.

So-called full-term servers, that is prisoners who have completed their entire prison or juvenile imprisonment term, including those whose sentences have been reduced in recognition of time spent in detention pending trial or other types of detention connected with the prosecution for their offence are, under normal circumstances, free citizens following release from a penal institution, because their debt to society has been paid. However, the law provides for a control of full-term servers of long sentences after release, as such individuals are considered to be in great danger of returning to crime and causing not inconsiderable damage and harm to others. This control takes place in the form of non-custodial measures for the supervision of conduct. It comes into effect automatically on release of a prisoner who has served a prison or juvenile imprisonment sentence of at least two years. Under the recently introduced Sexual Offences and Other Dangerous Crimes Act, these measures come into effect after the completion of sentences of one year or more for such offences. There are no precise statistics in this area, nor are there recent data on

conduct supervision as a whole, which concerns not only full-term servers, but also instances of supervision of conduct imposed for other reasons or instigated automatically according to the law. An estimated 15,000 to 20,000 individuals are subject to the supervision of conduct on any given day.

Aid for discharged prisoners is a complex part of the re-integration of offenders into society and of their broadest possible rehabilitation. This duty began to be seen as the immediate responsibility of the state only a few decades ago. Insofar as this concerns the judiciary, this function is taken on by social workers at detention centres, probation officers, conduct supervision officers, and court aid officers as part of their general portfolio of responsibilities and remits, insofar as this is possible or necessary from individual case to individual case. Additional support and promotion opportunities are available to the organs of social and labour administration, some of which can be prepared or whose implementation can be initiated before the prisoners' release. In the case of juvenile criminal law, such duties are the responsibility of the local authority in the area where the department of juvenile court aid is located.

Since the early 19th Century, private associations and federations for the aid of criminal offenders, bearing names as such or other names (such as probation service, social justice aid, free help) have played an important role in aiding released prisoners. Without such organisations, the task of resocialisation implied by the commitment to the social state set out in the Constitution could not even begin to be realised. For this reason, associations and federations for the aid of criminal offenders deserve to be well supported. That is especially true when their activities are seen as forms of tertiary crime prevention. Aid for criminal offenders and aid for victims of crime are complementary and do not represent a contradiction.

3.8 Statistics Concerning Recidivism

Punishment is not an end in itself. According to the doctrinal terminology of the Federal Court of Justice, the intervention of criminal law is only justifiable “when it simultaneously proves that it is a necessary means for fulfilling the protective function of criminal law as a method for crime prevention”.

In accordance with the objective of criminal law to ensure that citizens can live together peacefully and that the legally-secured peace is guaranteed, the extent to which ex-offenders continue to conduct themselves within the confines of the law is, above all, an important criteria for successful control. Of course, legal conduct is just as difficult to fully measure as recidivism is; many offences remain undetected. As a rule, successful (special preventive) control measures are therefore limited to the evaluation of a further conviction.

The current system of criminal justice statistics sheds no light on the legal conduct of ex-offenders, although this has been demanded for more than a hundred years. It is a book-keeping system without a proper balance sheet. Only by including data about recidivism and examining the actual effects of the sanctions implemented, can the necessary points of reference be made available for enlightened policies on crime.

The Federal Ministry of Justice has therefore commissioned the drawing up of a feasibility study for statistics on recidivism. The data bank of the Federal Central Register (BZR) provides the foundations for this. Former statistics on recidivism drawn from the reference years 1980 to 1984 concern themselves solely with imprisonment sanctions as decisions which can be used for reference. In the newly conceived statistics on recidivism, which have been drawn up in the meantime, all criminal court convictions as well as all entries into the Federal Register of Decisions in Juvenile Matters will henceforth be taken account of. An evaluation of the data from the Federal Central Register for the reference year 1994 is currently being carried out.

Of course, what these statistics on recidivism actually have to say on the subject will be dependent on the framework of limitations set by the criteria used for recording data, as well as on the completeness and

validity of the data. Quasi-experimental comparisons can be used within these limitations – as far as is possible – to examine the effectivity of these sanctions. Thus, legislative power and legal practice can be provided with significant points of reference for the rational implementation of criminal-legal reactions.

From periodical statistics on recidivism, based on data from the Federal Central Register, we can expect statements, especially with regard to developments in offence-specific recidivism, about the type and the extent of recidivism in direct relation to the kind of sanction and its severity, the proportion of young people among those convicted and the amount of registered offenders who have multiple convictions. These descriptive data are essential for consequential crime policies. Periodical statistics on recidivism, allow, furthermore, an observation of developments in each of these sections.

And if data from a cross-section of statistics on recidivism allow important questions on crime policy to be answered, then there are also additional informational interests e.g. with regard to the continuation or cessation of a criminal career, or to the proportion of adults who have been convicted of a crime. Longitudinal statistical data are required here, the type of which can only be achieved through age cohort data. In the medium term, furthermore, statistics on recidivism should be expanded to include the gathering of age cohort data based on official collections of data.

4 Crime Prevention

Crime prevention dedicates itself to the task of guarding and protecting society against criminal offences. Till now there has been no clear-cut and narrowly defined definition of crime prevention. This situation is not likely to change in the near future due to the theoretical and practical complexity of the subject matter.

At the moment, a difference is made between primary (directed at the community as a whole), secondary (aimed at groups of people at risk or at reducing opportunities to commit a crime) and tertiary prevention (which targets people who have already been convicted of a crime).

It is true that, in Germany, the importance of crime prevention for crime policy and practical law enforcement as well as for the way in which those at risk of committing a crime are treated and how offenders are dealt with has, for a long time, occupied a prominent position in theory. However, when it comes to putting this into practice, Germany has been rather negligent in comparison to other states, namely those in Scandinavia. Since the nineteen-eighties, new developments towards active, practice-oriented crime prevention have been established. Since the beginning of the nineteen-nineties, the first committees have come into existence which dedicate their work exclusively to crime prevention (crime prevention councils).

Because a large proportion of day-to-day crime takes place at a local level, according to practitioners' experience and criminological research, not only with respect to the criminal acts themselves, but also with regard to the social circumstances of perpetrators and victims of crime, concepts for community-oriented crime prevention, which nowadays generally fall under the heading of community crime prevention, demand special attention. Community crime prevention dedicates its energies not only to the reduction or (where particularly successful) to the prevention of crime as an "actual" occurrence. More than this, crime prevention also plays an important role in reducing people's fear of crime, which acts to impair the quality of life of individuals, in some cases even affecting the inhabitants of or visitors to entire residential areas or parts of a city.

In the meantime, it is clearly a fact that fear of crime is also increased by conditions which seem, objectively, to have nothing to do with manifest crime. The "Broken Windows Theory", which was developed in the USA, but has often been referred to here in Germany draws the attention of practitioners, politicians and scientists to the circumstances – which are relevant in their approaches – that signs of decay and dereliction in public places and/or continual disturbances are considered by citizens to be an outward sign

of an underlying threat of crime or of the phenomenon of crime. A lack of reaction from the authorities can result in a widespread loss of trust in the validity of the law and in the guarantee of internal security. However, the relationship between the various factors are often described in a far too simplified way which does no good.

According to experience from abroad, model projects for so-called problem-oriented police work or also community policing are particularly well-suited for involving the police in a partnership for communal crime prevention. Meanwhile, there have been many attempts at this in Germany, generally referred to as "citizen-friendly policing" ("bürgernahe Polizeiarbeit"). In contrast to this, the more widely known "zero tolerance approach", with which the Mayor and Police Chief of New York became particularly famous, is used only sparingly, even in the USA and is furthermore heavily criticised. Apart from that, the whole concept of crime prevention in New York is substantially more differentiated than would at first appear. Repressive measures, in particular against disturbances of the peace in public places and more petty crimes, involve reconstruction plans for town and residential area, with specially experienced local courts and with social assistance for those criminals who need it, to name but a few key points.

Applied crime prevention, which now takes on many forms in Germany, has, since 1997, been documented by a broad range of authorities and organisations and can already be researched, in part, using the Internet (for example, on the Internet page of the Federal Criminal Police Office <http://www.bka.de>). There already exists a number of organisations, active throughout the whole of the Federal Republic, who work to promote crime prevention. By setting up the German Forum for Crime Prevention ("Deutsches Forum für Kriminalprävention - DFK"), the Federal Government and the Länder have set a clear signal to make people more aware of a notion of targeted crime prevention which covers various fields of competency and which applies to society as a whole.

At the present time, a systematic evaluation of crime prevention measures, projects and initiatives is not being carried out to any great extent in Germany. In the long run, however, an evaluation like this must be encouraged, as should all reactions of crime prevention policy, in order to achieve a secure foundation for real progress in this complex field.

5 Juveniles as Perpetrators and Victims of Crime: Scientific Findings with Special Reference to the KFN-School Pupils' Survey on Violence Among Youths

In the nineteen-nineties, youth crime rates, especially those for violent crimes committed by juvenile and young adult offenders, was the subject of heated debate and was observed with some concern. The background to this was a quantitative increase in the numbers of such crimes since the second half of the nineteen-eighties. These developments were followed by various demands in the political arena for stricter sanctions in the area of juvenile offences, e.g. for the lowering of the age of criminal liability, for generally treating young offenders in the same way as full adults under criminal law or for the reintroduction of secure units for children who have not yet reached the age of criminal liability.

These types of demands stand in contrast to the results of various pieces of research into juvenile delinquency. These show, both on a national and international level, that a great majority of young people commit some kind of petty offence at some point during their adolescence without this turning into a criminal career in the long term. Furthermore, violent crimes among young people, which seemed to offer some occasion for concern, account only for a very small portion, approx. three percent, of all crimes committed by juveniles. In addition, as opposed to what is generally held to be true, this violent crime among young people is mostly due to confrontations among youths of the same age group. In addition, there are indications that the visibility of such crimes has increased in the past years because they have been more often reported than before. In the long run, which is of importance from the point of view of

crime prevention, if we include acts of violence committed by adults, young people are more often the victims than the perpetrators of violent crime, a fact which is often not realised.

The thesis, that stricter legal sanctions for young people can contribute to a reduction in juvenile delinquency by acting as a deterrent, could not be proved empirically. Also the assumption that stricter and an increased number of sanctions would have a preventive effect on individuals and would prevent the descent into a criminal career, could not be confirmed empirically up until now. On the other hand, the negative consequences of imprisonment (in particular, the loss of social ties, stigmatisation, learning from "experienced" co-prisoners) are sufficiently known of. Juvenile delinquency is generally not too serious and is characterised as a temporary episode, which is a typical developmental mode of behaviour everywhere and can be seen as normal in a statistical sense, as well as being limited in most cases to a certain period in an individual's life; these are facts which are already accepted in the scientific findings of juvenile punishment and criminological science. According to empirical research into sanctions, this is in line with the substantial proportion of cases which were dealt with informally, i.e. without a formal court decision, in the past decades.

However, it must also be noted, that a small portion of those young people who come to the attention of the criminal authorities, did so very noticeably. Only a certain amount of them begin a long-term criminal career. This small group generally has various problems to deal with, both with regard to their individual dispositions as well as in relation to the social environment they grow up in; the reduction of these problems would be an important undertaking from the standpoint of crime prevention. However, it is just this undertaking that, according to current scientific knowledge, cannot be appropriately managed using the traditional methods of criminal prosecution. Preventive and helpful intervention which is oriented towards the individual risk constellation and the individual problems is much more necessary in this case. An essential prerequisite for this intervention is the creation of a relationship, characterised by acceptance and respect, which opens up perspectives for the future.

Children and Juveniles as Victims of Crime

The Police Crime Statistics only contain limited information about crime victims. Those that do exist refer mainly to violent offences, with the restriction however, that offences within the confines of the family, which are particularly relevant for young people, are hardly ever reported. Over the past 15 years, the police have noted an increase in the number of victims of violent crime, which was primarily to the detriment of juveniles and young adult offenders, while only moderate changes were observed among adults. Thus, in the mid-nineteen-eighties, about 260 victims of violence per 100,000 juveniles were recorded in the old Länder. In 1999, the figure had increased to 930 victims of violence per 100,000 juveniles, more than three times as many. In the case of young adult offenders between the ages of 18 and under 21, the number of victims of violent crime per 100,000 rose from 420 to 950.

Robbery and dangerous and serious bodily injury are the two quantitatively most significant types of offence in the category violent crime as defined in the Police Crime Statistics. Whereas, in the case of robbery against young people, there has been a reduction in the number of victims since 1997, this is not the case with dangerous and serious bodily injury. This can presumably be explained by a change in recording which has been caused by changes in the legal circumstances. Important is nonetheless, that in the case of particularly serious offences, which are of interest to the media and which could also cause apprehension, no increase has been recorded. Thus, the number of crime victims per 100,000 in cases of homicide of juveniles and young adult offenders has remained more or less stable since the mid-nineteen-eighties: the number of child victims per 100,000 has almost halved. Special attention must be paid to the fact that the number of sexually motivated murders of children, youths and adolescents committed has fallen by about two-thirds since the seventies.

Results from current self-report studies, which were carried out by the Criminological Research Institute of Lower Saxony (KFN) from 1998 to 2000, also show that, if we leave out incidents of violence which happen in the family, an overwhelming majority of young people were the victims of violence from perpetrators of about the same age, in most cases males. With the exception of sexual offences, where female juveniles are far more affected than males, it is true of all other types of violence, that not only the majority of perpetrators, but also most victims are male. Perpetrators of robbery, extortion and bodily injury against juveniles are usually juveniles or young adults themselves, who mostly act in groups. According to the results of self-report studies, peer groups play a substantial role in the lives of young people, which should not only be looked at from the standpoint of crime and deviance. The development of autonomy, the formation of one's gender identity, coming to terms with societal norms and values, but also the nurturing of friendships and establishing an own social network which can lend a young person a feeling of community and mutual support – all these are important functions of peer groups. The results of surveys among school pupils show that over 70% of juveniles belong to a fixed group of people of their own age, and more than three-quarters of these meet up with each other daily or at least weekly. Juveniles in peer groups become delinquent slightly more often than young people who do not belong to such groups. A differentiated observation of the activities of such groups, however, shows that only about 6% of young people belong to groups like these in which deviant behaviour and violence represents an important part of the group's activities. This small group is responsible for more than half of all offences reported to have been carried out by juveniles, while over 40% of young people belong to groups whose activities are not characterised by deviant modes of behaviour.

With regard to the data on reported crime by the police, it is important that more than 80% of all violent incidents are not reported by the victims. This opens up considerable scope for changes in reporting behaviour and therefore also for a transformation in the visibility of juvenile violent offences in the statistics. Comparative surveys of school pupils in four large cities in the Federal Republic of Germany, which were conducted in two waves with a time period of 2 years, have shown, furthermore, that the willingness to report a crime among young crime victims has grown.

Furthermore, it has been ascertained, that almost two-thirds of violent incidents between young people take place between groups of different ethnicity. This finding was also confirmed by criminological analyses of public prosecutors' files. It was also noted here that the number of these kinds of offences between different ethnic groups has increased considerably since the beginning of the nineteen-nineties. If we also take into consideration that self-report studies among school pupils have repeatedly shown that such constellations, in which perpetrator and victim belong to different ethnic groups, are also now reported more often, then this points to the fact that at least a portion of this observed increase, in line with a growing willingness to report crimes, was due to the increased visibility of this kind of crime in the figures for recorded crime during the nineteen-nineties.

To a great extent, young people experience violent victimisation within the confines of the family. It is true that a series of studies from the nineteen-eighties and nineteen-nineties have pointed to the fact that the acceptance of violence as part of bringing up children is on the decrease. This can be seen in the rates for young victims of parental violence, which declined somewhat between 1997 and 1999. At the same time however, 9% of all young people in the year 2000 were physically abused by their parents. A further 13% experienced severe physical punishment, whereby more than one fifth of all juveniles suffered severe forms of physical violence at the hands of their parents during their childhood. In 1999, approximately 10% of the juveniles stated that they had suffered this kind of severe punishment or abuse from their parents.

Furthermore, it has been shown that this kind of violence occurs more often in the face of economic and social problems, such as unemployment or dependency on social welfare, and is more widespread at the

lower end of the social strata. In families where the relationship between the parents is characterised by violence, there is just as much likelihood that the children will also be victims of parental violence. Young immigrants, whose families are very often at an economic disadvantage, are 2-3 times more often the victims of parental violence than German youths.

Besides the immediate adverse affects and the pain it causes, violence against young people within the family also has long-term consequences. It influences negatively the way in which people perceive themselves and their social environment and prevents them from developing skills in social competence, especially the ability to deal with conflicts without resorting to violence.

Such youths are more likely to develop positive attitudes to violence and the risk that victims resort to violence themselves later in life is significantly increased, as is evident in the findings of various studies. Furthermore it has been shown that young people from families in which violence occurred are more likely to be members of seriously deviant and violent groups of youths in their own age. In connection with the subject of youths and violence, the victimisation of young people by violence in the family is quantitatively and qualitatively one of the most significant phenomenon, a phenomenon that scarcely appears in crime reports of the police and the courts. Reducing this problem within families should be an important step towards the prevention of juvenile violence, in view of the negative effects it has on the victims.

Children and Juveniles as Perpetrators

With regard to active delinquency among young people, police statistics show that juveniles and young adults are far more often discovered behaving in a criminal way than adults. Thus, in 1999, juveniles and young adults – based on 100,000 people of each age group – were registered as crime suspects two to three times more often than adults. Since the middle of the nineteen-nineties, the number of children per 100,000 in each age group was also higher than that of adults. However, an exact study of the offences registered, the degree of seriousness involved and how they were dealt with judicially brings this figure very much into perspective. First of all, the fact that young people are more often involved in crime is nothing new. Since records of crime statistics began in Germany in 1882, it has been shown that the age-related frequency of criminal incidents when young rises steeply at first, reaching its peak among young adults and adults from 21 to less than 25 years of age and then falling rapidly after that.

Existing findings concerning unreported crime also show again and again that minor, occasional delinquency among young people is very widespread, and thus, statistically, a “normal” phenomenon, which occurs at all levels in society. The latest results of self-report studies among school pupils from the year 2000 show, for example, that about two-thirds of juveniles admitted having committed at least one act of delinquency over the last 12 months, these being primarily minor property offences. In comparison, more serious crimes of theft, such as breaking and entering or breaking into vehicles were much more seldom, with only 2-4% of crimes. More serious acts of violence such as robbery, extortion or threatening with a weapon are also very rare. The proportion of perpetrators of such crimes lies between 1% and 3%. According to this information about unreported crime, the most common violent offence against a person is minor bodily injury, which is committed by about one-seventh of juveniles.

In respect to reported crime, the majority of crimes committed by young people are property crimes. 86% of the child suspects and two-thirds of the juvenile suspects were recorded by the police for theft or damage to property. More than half of all crime suspects under 14 years of age and almost a third of all juveniles were recorded by the police because of shoplifting. Accordingly, of all crimes committed by juveniles and young offenders which are registered with the police, most of them are less serious types of crimes – in contrast to crimes committed by adults. Furthermore, it has been shown that more than 50% of robbery or fraud offences committed by children and juveniles lie in the range of minor offences with

financial damages of less than DM 25. This is the case for approximately only one-fifth to one-third of all such offences committed by adults over the age of 21. On the other hand, damages to the value of more than DM 1,000 are rarely caused by children and juveniles. Thus crimes which go hand in hand with a high degree of damages for society tend to be committed more by adults. Because of the low degree of seriousness of crime committed by young people, they are far less likely to be formally charged or convicted of a crime than adults. In 1998, 20 out of a 100 juvenile suspects were convicted, but 30 out of 100 young adult offenders and 35 out of 100 adults. Accordingly, taking as a basis the rates of convictions, juveniles and young adult offenders are less affected than adult offenders from 21 to less than 25 years of age.

If we take child delinquency, a subject which is always at the centre of media attention due to reports about relative rates of increase, we mustn't forget that this is to a considerable extent dependent on changes in the intensity of controls. This is especially the case for shoplifting, the discovery of which is usually determined by the intensity of controls carried out. As shoplifting is the main offence committed by children, even more so than by juvenile offenders, and as it accounts for about three-fifths of child delinquency in 1999, this means that police data on child delinquency are very selective. Furthermore, the number of shoplifting offences committed by children which were recorded by the police, were cases where the damages amounted to less than DM 25 in three-quarters of all cases. The proportion of children who were recorded by the police because of a violent offence was extremely small. On this low level, the figures have increased in the old Länder from 0.05% to 0.19% since 1984.

The number of juvenile and young adult offenders per 100,000 in age group who have been recorded by the police as having committed a crime has almost doubled in the old Länder since the mid-nineteen-eighties. However, the number of those convicted in both age groups, has increased to a much smaller extent. This has to do with the fact that lesser offences by young people have seen a much bigger increase and many cases are dropped by the judiciary.

The increase in the number of juvenile and young adult offenders recorded by the police as having committed an act of violence, which could be observed from the middle of the nineteen-eighties until 1997, meant that for both crime suspects and victims, an increasing number of younger people were registered. At the same time however, the amount of damages caused by robbery offences which were calculated by the police, have fallen among suspects of this age group. Analyses of files from cleared up cases also confirm that violent offences by juvenile and young adult offenders have, on average, been becoming less serious. Next to rapidly falling amounts of damages, a reduction in the proportion of armed criminals and a decrease in the number of cases in which victims suffered extreme injuries, the proportion of crime suspects without a previous criminal record has been rising. The increase in the number of less serious violent offences recorded by the police also explains why, since the nineteen-eighties, the public prosecutors and the juvenile courts have dealt with an increasing number of cases, where violence was involved, using informal measures.

It must also be noted that, in most recent times, there have been reductions in the numbers of juvenile and young adult crime suspects recorded by the police. The reductions have been particularly noticeable in the case of stealing offences. Accounting for more than half of all offences among juvenile and young adult offenders, this is the most significant type of crime carried out by suspects in this age group. If we look at theft committed under aggravated circumstances, the number of suspects per 100,000 in age group in 1999 was significantly lower compared to in 1984. Between 1997 and 1999, a reduction in the number of suspects per 100,000 in age group could be noted among young people in the cases of robbery.

The results of surveys which have repeatedly been carried out among school pupils also point towards a reduction in delinquency among young people over the last two years in respect to property offences and

violent offences. Especially with regard to violent offences, a study from Brandenburg provides indications of a reduction in the level of youth crime. In addition, survey results show that attitudes in favour of violence are also on the decline and that young people increasingly perceive the relevant people they look up to in their lives as rejecting violence. Information provided by young victims also shows that the willingness to report crimes of violence has also increased, so it can be assumed, that the fall in the number of cases recorded by the police cannot be traced back to a fall in visibility. Therefore, a short-term reduction in the level of youth crime can be determined, based on the data provided by both studies into recorded crime and self-report studies.

Particular Characteristics of Juvenile Crime

Analyses of both reported and unreported crime show that young people who come to the attention of their environment through delinquency, are often disadvantaged from a social point of view. As a rule, their educational qualifications are at the lower end of the scale as is the economic position of their families. In the last years Germany has seen an increase in the number of young people and their families who are socially disadvantaged. One factor which could be of some significance with regards to negative educational careers is truancy. Results of surveys among school pupils have shown that occasional truancy, like other forms of oppositional behaviour, are widespread at a young age and statistically normal. However, persistent truancy is considerably more seldom and, if we consider the recognised relationship between education, future options and crime, we can see that truancy is, in the long term, undoubtedly problematic with regard to the threat it presents of the absentee pupil's school situation disintegrating altogether. In connection with this, a correlation can be seen between truancy and pupils' own reports of delinquency. However, it can also be assumed, that in the area of providing a school education, purely repressive measures can hardly have a preventive influence. Thus it has been shown, that – as is often the case with delinquency – persistent truancy is in many cases a symptom of the individual's problems with school or family, which should in turn be the subject of helpful intervention.

The available data show that delinquency and crime are gender-specific. Thus the crime rates of male juvenile and male young adult offenders recorded by the police is more than double that of females. As the seriousness of offences for which female suspects are accused is usually less than among males, and as females accused of an offence are far less likely to have a criminal record than are males, the gender-specific differences are even higher among those convicted. Here, young males are convicted six or seven times more often than young females. In the figures for violent crimes, the differences between the sexes are even more apparent. The number of male juvenile suspects per 100,000 in age group recorded here is more than six times the number of females, in the case of young offenders it is even 12.5 times as many. These differences between the sexes are confirmed by self-report studies. While the differences between the sexes in the area of less severe property offences still remain quite small, there is a significant dominance of young male offenders in violent crimes.

A statistically longitudinal comparison of cohorts of German crime suspects recorded by the police shows the highest level for female juvenile offenders among the 14/15-year-olds. Subsequently, the number of crime suspects per 100,000 in age group among them decreases continually the older they become. In contrast, when it comes to young male juvenile offenders, the rates are at their lowest for the 14/15-year-olds and increase with increasing age, reaching a peak among the 18-, 19-, and 20-year-olds. Accordingly, female juvenile offenders end their phase of juvenile delinquency earlier, which has to do with the maturing process as well as with gender-specific differences in expected modes of social behaviour and informal controls connected with this.

One group which has repeatedly become the focus of attention over the last years is that of young *immigrants*. Police statistics do not allow any reliable conclusions for this group, which is actually very heterogeneous, as information about developments in the total number of immigrants resident in Germany is

not reliable. It can be concluded, however, that the increase in the number of people seeking asylum until 1993, was connected to a large extent with the increase in, above all, non-German suspects recorded as having committed theft. The decline in the number of people seeking asylum, who live in particularly unfavourable social circumstances, was connected to a significant reduction in the number of crime suspects from this group since 1993. Whereas the decline in the proportion of non-German suspects in the figures for violent offences since 1993 has not been as marked. Thus, in 1999, nearly every third 14 to 21-year-old suspected of having committed a violent crime was a non-German. Here it is important to note, that this higher proportion of violent crime suspects are, above all, non-German males. However, it must also be taken into consideration, that, according to information based on interviews with victims, young non-Germans are more likely to be reported for an act of violence than are young Germans. Furthermore, the more serious social disadvantages in the areas of school education, job training and employment faced by this group have to be taken into consideration. In addition, the results of self-report studies among school pupils show that the number of young non-German immigrants per 100,000 in age group for perpetrators of property offences are rather lower than is the case with their German peers. Increased rates of delinquency are to be found only for violent offences and only for male juvenile offenders. Even when the effects of unfavourable social factors faced by young immigrants are statistically controlled, smaller individual groups within the main groups still show higher crime rates than German offenders. This increased willingness to resort to violence is obviously connected to diverging cultural attitudes, as to how far masculinity is related to dominance and the ability to prevail by violent means. Controlling statistically for the different interpretations of masculinity between different ethnic groups, the differences in the rates of self-reported violence between the diverse groups of immigrants disappear.

With regard to young ethnic Germans from the East European countries, the available data is not very consistent. Particular evaluations in police data indicate that, presumably, those young, ethnic German males who came to Germany in the nineteen-nineties are more likely to be reported to the police. The results of several self-report studies show, in contrast to this, that young ethnic Germans from abroad are not more likely to be delinquent. However, in contrast to this, a study is available which reports increased numbers of crime suspects per 100,000 in each age group among young ethnic Germans from abroad. It is not clear, to what extent regionally specific characteristics, a possible higher level of social controls in areas where many ethnic Germans from abroad live or an actual higher level of delinquency among young ethnic Germans from abroad can be assumed here.

Conclusions

Detailed analyses of juvenile crime have given rise to the following general insight: reliable, regionally consistent and quick methods for reacting are needed, beyond the excessive prosecution of petty offences. Simultaneously, the methods of reacting should open up opportunities for criminal justice to concentrate on more severe breaches of the law, which demand serious, integrative and effective preventive measures. A tightening of the criminal law relating to young offenders and of the sanctioning procedures dictated thereby would rather serve to intensify the problem than to solve it. All in all, the crime rate among young people should experience a sober evaluation and, above all, preventive consideration should be afforded more emphasis.

In the case of children, it seems appropriate, considering the particular significance of the above-average petty character of their deviations, that punishment continues to be renounced and that detection of the crime be sufficient from the standpoint of criminal law, as this serves, in particular, to reinforce the norm (reference to the fundamental criminal liability and disapproval of the act). This way of proceeding is, without question, suited to the developmental stage of the children's concept of moral judgement and to their social behaviour which oscillates between playfulness and seriousness. Compared to that, legal

measures for the public assistance to young people should aim to improve measures for early recognition and help, especially for those small groups who face considerable developmental problems.

As outlined in the explanation of the 1st law for the amendment to the Juvenile Court Law (1. JGGÄndG) from 1990, the reaction of criminal law to juvenile and young offenders must orient itself towards the fact that those modes of behaviour which are relevant for criminal law are an issue for the majority of young people only for a short and limited period in their life and cease to exist when they reach adulthood. Therefore, informal sanctions and/or reactions, i.e. dropping criminal cases which often involve educational measures, such as instruction or conditions, are appropriate in the vast majority of cases. This type of reaction also has the advantage of immediacy. However, there still exist considerable differences between the Länder in the proportion of cases dealt with using these so-called methods of diversion. It could be that the very differently developed range of community service programmes offered in each region is responsible for this. When no programmes for offender-victim mediation, for community service work or other such measures are available, then the possibilities for intervening opportunities for diversion (which involve pedagogical measures) are limited. Therefore, it is important in the future to increase the number of such options everywhere so that they can actually be implemented in the great number of cases in which constructive, educational intervention which avoids exclusion is required. In face of the large proportion of young immigrants among the youth population, it would be important that also these special groups, who are subject to substantial social disadvantages, are provided with special day care community measures, which are suited to their specific needs.

The formal sanctioning of crimes committed by juvenile and young adult offenders must be carried out cautiously and with the appropriate level of judgement. Custodial sanctions such as youth detention and imprisonment, as well as pre-trial detention should be repressed according to the legislator of the 1st law for the amendment to juvenile court law from 1990. This has to some extent already happened. However, in the nineties, an increase in the number of those convicted to youth imprisonment could be observed. Even considering the increase in informal reactions, at the same time, a slight rise in the proportions of convictions to youth imprisonment sentences of one to two years can still be seen. The basic idea of German youth court law, that the legal consequences of misconduct by juvenile and young adult offenders must be chosen in such a way that negative and disintegrative effects which could have a detrimental impact on their development should be avoided as far as is possible, remains therefore as relevant as ever.

Tendencies towards an extension in the implementation of general criminal law to include young adult offenders seems, in face of the above, inappropriate for the following reasons:

- In this way, the range of possible methods of reaction which are provided by the Juvenile Court Law with its educational and disciplinary measures, but also by diversion and custodial sanctions conceived to be educational, are largely narrowed down to the alternatives of fines or imprisonment. Sociological and developmental-psychological findings about youths testify against this: The difference between juvenile and young adult offenders is practically non-existent if we consider that neither group has yet completed its educational phase in life. After the majority of school-leavers have left school, either with an intermediate ("Realschulabschluss") or advanced high school graduation certificate ("Abitur"), in order to begin their vocational training, the completion of a professional qualification is nowadays put off to the third decade of life. This is also true for other aspects of the transition into adulthood. This means that leaving the parental home and entering adult life now usually takes place after the age of 21 has already been reached, meaning that the period of youth is extended.
 - In addition, it has been shown that the process of transformation into those areas of life which belong to adulthood (leaving the immediate family, learning to cope with relationships and occu-
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pational life) and the consequences thereof – both for the process of moral maturity and for the development of personal identity – are interrupted chronologically and effect the growing up process at different points in time depending on the individual's situation in life. It is therefore less easy now than before to determine a definite coming-of-age, meaning that an examination of the developmental progress of young adult offenders is appropriate and necessary for every individual case.

- Furthermore, the pluralisation of value-orientation, the loss of generally recognised standards of behaviour and role models slow down the development of a stable, adult personality.

It is necessary, above all, to prevent the victimisation and social exclusion of young people, as these are central risk factors that can lead to later delinquency. The highest victimisation rates, especially considering violent crime, and the biggest increases regularly occur among young people, namely among male juvenile and young adult offenders. Taking into consideration violence in the family, young people are far more often victims than perpetrators of violence. Victims of violence by adults are frequently young people, victims of violence by young people are often people of the same age as the offenders. Therefore, young people deserve special attention and our protection, not so much as perpetrators of violence, but as victims of it.

II. Conclusions of the Federal Government for Crime and Legal Policies

This Report on Crime breaks new ground in official reporting on crime and criminal prosecution. In comparison to all previous statistical and other descriptions of the security situation, this report offers for the first time a comprehensive picture of the various types of crime and their criminal prosecution and also affords crime prevention the proper importance it deserves. Official statistics and findings from criminological research, as well as interviews with victims, serve as a basis for this. By bringing together information from the fields of both detected and undetected crime, the most comprehensive crime description possible is aimed at, taking into consideration both perpetrators and victims of crime. Taking stock of reactions pursuant to criminal law has provided a necessary addition to the portrayal of the crime situation. In addition, the Report on Crime should make clear, in which areas gaps in our knowledge are still to be found and how we can work towards closing these gaps. The report offers, therefore, a comprehensive approach to the evaluation of the security situation in Germany and the necessary basis for the current and future drafting of crime and legal policy.

The Report on Crime gives the Federal Government the opportunity to present measures which have already been initiated or which are still in the planning phase, and which represent initial answers to the problems outlined. However, the report – intentionally – reveals gaps in our knowledge, as well as previously unrevealed policies for action in the areas of crime, legislation and security. The Federal Government does not expect, with the following conclusions, to be able to issue a suggested solution, which can immediately be put into action, for every problem mentioned. Rather, it is the duty of future governmental work to move towards finding the necessary measures and then align them with empirically established findings.

The Federal Government is conscious here of the fact that it can only offer approaches to problem-solving within its sphere of responsibility. In several areas, the support of the Länder and the local authorities is required. In accordance with this, the Report in Security contains a series of approaches, which can only be implemented through the close co-operation of the Federal Republic, the Länder and the local authorities. This emphasises once again, that only procedures which are co-ordinated by all responsible parties can lead to successes in the way crime is dealt with in the long run. Therefore, the Federal Government intends with this Report on Crime, to offer proposals for and provide a contribution to discussion-worthy approaches to the problems, in the form of dialogue-oriented policies. These should serve to provide important stimuli for actual measures.

The following conclusions outline those questions about modern crime and security policy which have come to light in the findings of the Report on Crime as well as highlighting approaches to problem-solving which, in the opinion of the Federal Government, point the way for the future. First of all, those aspects – covering several areas of crime – will be looked into which, based on the report, constitute priorities for the future work of the Federal Government (in point no. 1). This is followed by observations about individual fields of crime dealt with in the Report on Crime, which the Federal Government consider to be in special need of debate (in point no. 2).

1 Priorities in Government Work Covering Several Areas of Crime

1.1 Advances in and Intensification of Research and Statistics in the Depiction of and Reporting on Crime

Rational policies for crime and criminal law require, among other things, a solid, empirical foundation. Findings on the extent, structure and development of crime on the one hand, and on criminal prosecution, punishment of crime and imprisonment on the other, must be available to such an extent that the measures of crime and criminal prosecution policy can be successfully formed and that the effects of these can be examined. In accordance with these premises, one important concern of this Report on Crime is to bring

to light deficits in the available information, in order to provide impulses for necessary research and improvements in the area of statistics.

The Report on Crime makes clear that, in Germany – contrary to the situation in other countries – continually updated research into the area of undetected crime has been lacking. Such research projects, called „crime surveys“ or „victim surveys“ in the English-speaking world, are a necessary instrument for measuring developments in crime for those types of offence where this is appropriate. These surveys make it possible to make statements about people’s behaviour when it comes to reporting crimes, as well as about the experiences of crime victims, and therefore act to complement official crime statistics. Furthermore, they allow us to gain insight into attitudes among the public on various aspects of crime and criminal prosecution. This means that there is, at last, feedback between the evaluations made by the population and the measures of crime policy. The Federal Government would therefore like to intensify the contacts it has already made to academic and commercially-run research institutes, with the aim of making available a concept for the completion of periodical crime surveys, as soon as possible.

Ideally, the statistics for crime and criminal justice should provide a picture of the extent, structure and development of crime as well as outlining criminal prosecution procedures in their individual stages (investigation, interlocutory and main procedures) right up to execution of sentence and imprisonment. The Report on Crime shows, not for the first time, that official statistics do contain gaps in their present form. This situation must be improved, using the information which has come to light through the Report on Crime as a basis.

One significant step towards an improvement in the way the police record and depict crime will come through the implementation of the new INPOL-neu information service. In future, all criminal offences will be registered by the police and used for an immediate evaluation of crime developments, already when first reported. This will mean an earlier and therefore more effective reaction to the corresponding developments. After police investigations have come to an end, the underlying data will be updated and stored anonymously in a central data-bank at the Federal Office for Criminal Investigation. This will be run by INPOL-neu separately and independently of the police data, which are filed according to name. This collection of data offers opportunity for a whole range of flexible, special evaluations and will therefore lead to improved capabilities for interpretations based on the Police Crime Statistics (PCS). The new organisation of the PCS which goes hand in hand with INPOL-neu also involves, among other things, a more extensive registration of crime victims. In future, detailed statements can be made, in anonymous form, about offender-victim relations, about citizenship and about groups in society who are particularly at danger. Finally, better comparisons with the Criminal Prosecution Statistics can be drawn, due to changes in the way crimes are recorded.

Several statistics concerning criminal justice need to be fundamentally reworked and added to, in order to be in line with current information requirements. Above all, the Criminal Prosecution Statistics and the Probation Service Statistics must be introduced to all the new Länder as soon as possible, so that they can be brought together for Germany as a whole. Furthermore, the Federal Government, together with the Länder which are responsible for the criminal justice statistics, will clarify in what way the Criminal Prosecution Statistics can best do justice to present requirements. Here, the suggestion already made to regulate the Criminal Prosecution Statistics and the Probation Service Statistics pursuant to federal law, will be taken up again.

As the Report on Crime illustrates, almost 50% of all judicial inquiries viable for charges by the public prosecutors are dropped, with or without conditions. Therefore, comparative information from the statistics for criminal prosecution about decisions of the public prosecutors, especially those referring to the accused, criminal charges and the type of concluding decisions, have become considerably more impor-

tant. This kind of information could not be drawn from the statistics of the public prosecutors or from those on criminal prosecution until now. The Federal Ministry of Justice is therefore considering making the data of the Central Register of Public Prosecution Proceedings (ZStV) available to be used for statistical purposes as well as suggesting to the Länder that they also open the ZStV for future academic research.

The rational implementation of reactions pursuant to criminal law also means that their special preventive effectiveness and the other consequences thereof be subject to regular examination. This kind of examination of the success rate can be achieved with the help of periodical statistics for recidivism, based on the entries into the Central Federal Register (BZR). If the BZR data are gathered together in this way, so that they allow for additional age cohort analysis, then it will be possible, on the basis of this data to analyse, in the long term, developments in crime, the course of criminal careers, including both their beginning and end, but also the effects criminal prosecution sanctions have on criminal careers. As illustrated in the Report on Crime, the Federal Ministry for Justice has therefore commissioned the drawing up of a feasibility study as to whether statistics on recidivism could be carried out on a regular basis. Results are to be made available soon which will allow us to evaluate conclusively the possibility of realising this kind of project. In connection with this, it will also be examined, whether existing gaps in the statistical recording of suspensions of sentence on probation can be closed.

The existing statistics on imprisonment also require improvement, insofar as there are no reliable statistical figures about the number of prisoners annually, who begin and end their sentence (full prisoners, prisoners in pre-trial detention, persons in preventive detention). The Federal Government appeals to the Länder to put into practice the concept developed by them at the beginning of the 1990s for improved statistics on imprisonment in the wake of automatisisation in the registries.

Scientists have suggested the creation, in the mid-term, of an anonymous data-bank which draws on the data of the police and the judiciary, and which can serve as the foundation for a scientific analysis of the course of criminal careers and of criminal proceedings. This would be an ideal instrument for appraising the effects and the success of political measures for crime and criminal law. Following on from its intended reform of the statistics for criminal justice, the Federal Government will continue to pursue this line of development.

This kind of data-bank could also be used to carry out statistical analyses of the course of cases, i.e. those cases registered by the police (or other criminal prosecution authorities) could be followed statistically right up to the final conviction or even to the completion of sentence.

1.2 Reinforcing the Interests of Victims

The interests of victims must be taken more into consideration. This report has deliberately given aspects of the victims – in as far as this was possible and made sense – a position of prime importance in the depiction of individual types of crime.

Measures for the further improvement of victim protection and for the assistance of victims can apply for the scope of duties of the police as well as at judicial level. The Federal Government welcomes the introduction of the post of Victim Protection Officer in the police force, which already exists in some Länder. Just as welcomed by the Federal Government are the many private initiatives and state initiatives by the public prosecutors and the courts, towns and communities, which take care of the victims of crime.

At the same time, it is necessary to improve the rights of the injured party in investigative and criminal proceedings. The Federal Ministry for Justice intends, within the framework of a general reform of criminal proceedings, to make possible a more speedy settlement of criminal proceedings, this being especially in the interests of the victim. Furthermore, the interests of victims should be afforded more significant

consideration than has been the case up to now – in addition to the regulations already passed concerning the extended use of offender-victim mediation. This idea has already been made use of in recommendations for the reform of sanctioning law. Therefore, in accordance with the draft submitted by the Section Heads from the Federal Ministry of Justice, in cases where fines are imposed in the future, the victims' demands for compensation should be given priority. On the other hand, the court is duty-bound to determine, when sentencing someone to a fine, that one-tenth of the sum be donated to a public welfare institution for victim aid.

Victim and perpetrator often come from the same close environment, particularly in the area of violent offences, and often even from the same family. The Periodical Report on Crime also makes clear that children and juveniles – in contrast to the increasing tendency which can be witnessed in media reporting – are often affected by violence themselves, especially from the social environment they live in, and should not be perceived primarily as criminals and/or violent offenders. Violence experienced in the family is, on the other hand, a factor of great significance for the tendency an individual has to react to problem and conflict situations in a violent manner. Victim protection must therefore begin in the family. Above all, the weaker members of the family, i.e. as a rule women and children, must be better protected against becoming victims of domestic violence.

In order to react to the problem of domestic violence in an appropriate manner, we must first shed light upon the extent of it and its backgrounds. One prerequisite for this is, once again, improved statistical recording. As experience has shown that the willingness to report crimes in this area is minimal, we must expect a substantial amount of undetected crimes, which can only be brought to light using specific methods for interviewing victims. This means that this area requires further research. In the year 2002, the Federal Ministry for Family, Senior Citizens, Women and Youth plans to carry out a representative survey on violence against women, in which not only the extent of violence should be recorded, but also the causes and consequences of and reactions to it.

The Federal Government hopes to give new impulses for the protection of children from violence within the family, but also to provide stimulus for more extensive preventive measures, in the recently passed „Law for a Ban on Violence in Bringing up Children“. The right of a child to be brought up without violence is, furthermore, now set down in the German Civil Code and physical punishments, psychological damage and other degrading measures will be declared as unlawful in the future. The Federal Government is clearly aware here, that changes to the law alone are not sufficient. It will therefore inform parents about the damaging effects violence has on their children in active public relations work. The provision of real offers of help and advice to those who are the victims of parental violence can, nevertheless, only be put into practice by local branches of the public assistance to children and youths and by advisory bodies for victim assistance and victim protection.

Violence against women also happens very often in the domestic area. Therefore, in December 1999, the Federal Government decided upon a plan for action to combat violence against women, aiming to fight violence against women with a whole bunch of measures. A joint working group of the Federal Republic and the Länder was called into operation in spring of 2000 by the Federal Ministry for Family, Senior Citizens, Women and Youth to supervise the realisation of this plan for action.

In order to improve the legal protection in cases of domestic violence, the Federal Government has decided on a draft version of a violence protection law, which should make clear, that violence can also have incisive consequences for the perpetrator in his social environment. The law will empower the civil courts with the right to put into effect protection orders if applied for by the victim in cases of threatened and/or actual damage to physical well-being, health or threats to freedom, in order to prevent further injury taking place. Using this, the civil courts can, for example, forbid the perpetrator from visiting

certain places which the victim is known to regularly frequent. They can also stop perpetrators of violence from contacting or visiting victims. Protection orders should also carry the threat of prosecution and should not only apply to violence within the household, but also to acts of violence which are committed by or against partners in a relationship who do not live together. In this way, for example, cases of psychological terror through stalking can also be taken into account.

As a complementary measure, we must examine how the police can effectively intervene in situations of domestic violence in order to protect women. In this context, we are referring, above all, to restriction orders which prohibit the offender from entering certain areas – this being possible under Länder police law. Clearing up the question as to how protective measures of the police, pursuant to police law, can support and accompany the legal protection of civil law is the subject of a report from a working group with representatives of the Interior and Justice Departments of the Länder and of the Federal Republic, which has been submitted to the Standing Conference of the Ministers and Senators of the Interior for the Länder (IMK) for their information. The Federal Government is following with some interest the progress of already existing model projects in individual Länder as well as experience gained from these.

1.3 Strengthening Approaches to Crime Prevention

The idea has long since established itself in criminology that crime cannot be successfully combated and/or reduced through repression alone. Effective crime prevention plays a significant role in protecting the public against crime. Preventive measures can take effect at an early stage and on a broad base – for perpetrators, for victims and for the situation in which the crime is committed. Measures of primary prevention already work towards reinforcing people's perception of the law and of values, as well as removing deficits in socialisation; secondary preventive initiatives turn to potential perpetrators, in that they reduce the number of opportunities for committing an offence, make it more difficult to commit the offence and heighten the risk of detection. From the viewpoint of tertiary prevention, sanctions pursuant to criminal law should be designed in such a way, that they encourage the convicted to lead a life free of prosecution in the future. For these purposes, the Federal Government has placed considerable value on a reinforcement of crime prevention for all types of offence.

As crime always demonstrates local character in both its emergence and the effects it has, crime prevention projects at a local level are of significant importance. Without co-ordination, networking and an exchange of information the effects, nevertheless, often remain rather limited. Efficient crime prevention demands broad-based approaches which take the whole of society into consideration as well as an organisation suited to the federal nature of Germany, which makes possible a concentration of powers on a national, regional and local level. Various, very worthy crime prevention projects with approaches which go beyond just one sphere of responsibility have, in the meantime, been brought to life in the Länder and at a local level; these must be further integrated with one another. Accordingly, the Federal Minister of the Interior and the Standing Conference of the Ministers and Senators of the Interior for the Länder (IMK) decided, in autumn of last year, to set up the German Forum for Crime Prevention (DFK).

In the future, the DFK will take on a key role in the area of prevention and it will draw together the heads of both state and non-state groups from the fields of science and economy, from the churches and welfare associations, the media and other specialist institutions. The Forum should bring closer together, on a broad societal base, the variety of preventive initiatives on a federal, Länder and local level and strengthen them through close co-operation. In addition, strategies for protection against crime must be developed and implemented, which cover several areas of responsibility. The DFK should become the central information and service point for crime prevention, while at the same time acting as the initiator of actual projects for prevention. The main tasks set the forum include, furthermore, research into prevention, including the evaluation of preventive measures.

As the previous sections of the Report on Crime have shown, the reasons why crime emerges are just as complex as the forms which crime takes on. Correspondingly, preventive approaches for the individual types of offence must take these different conditions into account. The final conclusions outlined in section no. 2 on child and juvenile delinquency, on right-wing extremism, on crime among immigrants and on drug-related delinquency will make clear, that the Federal Government gives preference to policy approaches which take into account social, family, youth, health and educational aspects, also and even especially in the ways it deals with crime – even considering the risk, that immediately visible successes cannot be achieved. This also applies to, in particular, the area of violent crime in its multifarious, sometimes overlapping manifestations (robbery and qualified bodily injury offences, youth violence, extreme right-wing violence, violence by perpetrators from the close social environment, above all against women, children and elderly people). In all areas, the Federal Government is of the opinion, that a long-term improvement of the security situation can only then take place, if social conditions are created, which open up perspectives for the individual and which reinforce the legal perceptions and the value-consciousness of the public at large. Furthermore, individual manifestations of crime can be effectively dealt with using the means of secondary prevention, which should prevent a crime being committed by persons who are generally prone to becoming criminal.

This applies, above all, to property crime. The downward tendency which has been apparent for years, particularly in the theft of vehicles and in house burglaries, is – just as the example of steering wheel locks confirms – mainly due to technical measures and programmes for prevention. These have led to improved security equipment and to a reduction in the opportunities to commit a crime. The Federal Government therefore supports initiatives which are designed to further reduce the incidence of crime through technical prevention. In the area of vehicle theft this applies, for example, to the introduction of systems which render the vehicle immobile or to Europe-wide, standardised, forgery-proof vehicle documentation. According to latest findings, house burglaries can also be better protected against using further technical measures for prevention, such as developing a Germany-wide standard for the technical, basic protection of residential objects. Representatives from the construction and housing industry, from the banking industry, from associations and public authorities came to an agreement on these preventive approaches in the specialist forum „Secure Living“, organised by the Federal Ministry of the Interior in October 2000. Last but not least, particularly in the area of shoplifting, that old adage „opportunity makes the thief“ applies: the offensive presentation of sought-after consumer goods and the badly arranged design of sales areas offer incitement to commit a crime. Measures which take into account the design of such spaces, a more responsible organisation of the selection of goods on offer and electronic merchandise security systems would here act to substantially reduce the number of opportunities and the impulses to commit an offence.

It is the opinion of the Federal Government, that the noticeable increase in financial crime, especially in the area of non-cash financial transfers, could be combated with progresses in technical security in particular. However, the necessary measures for prevention can only be implemented jointly by banks, credit card organisations and the world of commerce, as well as by politicians and the police. In light of this, the Federal Ministry of the Interior provided advice about appropriate plans to representatives of the banking industry, associations, industry and public authorities at the specialist forum „Security for Financial Transactions“ in September 2000. One objective here could be an agreement that cards be changed from having magnetic strips to having microchips, because this expands the opportunities for identification, meaning a significant improvement in security. Because of this, such steps should be taken as quickly as possible. The fast introduction of suitable cryptographic procedures and secure digital signatures was furthermore seen as appropriate for preventing unauthorised influences on electronic data transfer in Internet transactions.

The Federal Ministry of the Interior, in co-operation with the Federal Criminal Police Office and the Federal Office for Security in Information Technology, is at present examining the legal and actual possibilities for realising the proposals put forward at the specialist forum.

In the area of violent crime, there is a possible, if not more generally applicable starting point for reducing the opportunities to commit crimes and for incentives to do so. In this case, the access to means for committing the crime, for example access to weapons, also play an important role. That is the reason why the Federal Government considers, as an important means for the prevention of violence, the precision, tightening and completion of stipulations in the laws concerning weapons in the wake of the present amendment of said laws. In future, a person shall not, as a rule, be deemed to have the necessary trustworthiness as required by the gun laws, if he/she is a member of a prohibited organisation or if he/she is a member of a party which has been judged as anti-constitutional by the Federal Constitutional Court and said membership lies not more than 10 years in the past. It is also planned to extend the list of prohibited weapons to include push daggers, butterfly knives and Ninja stars which have meanwhile – according to observations of the criminal prosecution authorities – established themselves in the criminal and violent milieu. The use of blank cartridge pistols and similar weapons in public, which are used in over 50% of all offences committed with a weapon, should be subject to the obtainment of permission („small weapon licence“) in future.

In the area of domestic violence, there are new strategies for intervention which pursue both general preventive and special preventive goals: using consistent state reactions to such violent offences in the areas of both criminal and civil law, the perpetrator should accept the responsibility for his actions and the victims should be more effectively protected. Through imposing certain conditions and instructions for the participation in special perpetrator programmes, a further attempt should be made to change the conduct of the offender in the long term. The Federal Ministry for Family, Senior Citizens, Women and Youth encourages such interventionary projects at the level of the Länder and organises research into the working procedures and the effects of such projects.

Prevention is also an essential aspect of the Law Against Dangerous Dogs, drafted recently by the Federal Ministry of the Interior as a reaction to the fatal events witnessed in summer 2000. The law plans to prohibit the import of certain species of dangerous dogs and will also create regulations pursuant to criminal law. Furthermore, it will extend the possibilities for passing a ban on breeding.

In the area of corruption offences, so-called organisational prevention is becoming more and more significant – next to primary prevention, i.e. strengthening the awareness of employees in the civil service to their integrity. Since society and state are dependent on the integrity of those who work in the civil service, it is necessary to avoid and/or counteract right from the beginning, organisational structures prone to corruption by using measures suited to the respective organisations and situations. This has also been imposed as an obligation by Federal Government in the Directives for the Prevention of Corruption in the Federal Administration since 1998. The measures laid down in the Directives include, among other things, the detection of fields of work prone to corruption, adherence to the principle of the separation of powers, rotation of personnel, the basic separation of planning, awarding and accounting as well as the principle of the public call for tenders. Feedback from the Federal Administration shows that the Directives have reinforced awareness of the problems of corruption and have inspired a variety of measures. Henceforth, the precautionary measures against corruption based on these principles must be continued, using experiences already gained as a foundation.

Tertiary prevention directed towards the avoidance of recidivism is also significant. Appropriate state reactions to crimes which have been committed lead to effective crime prevention. The following observations on the sanctioning system, outlined in 1.5 point to this.

1.4 Reinforcing a Feeling of Security

The security situation in Germany cannot and must not be measured solely according to the objective security situation, as depicted in official statistics. Proper policy on security must also be seen to exist by the public and perceived threats from crime must be taken more seriously into consideration. Studies have shown that, until the middle of the nineties, fear of crime – especially in East Germany – rose considerably, but has fallen substantially again since then. The comparative observations of the findings of crime statistics in the Report on Crime and the fear people have of becoming a victim of crime show that the objective crime situation and the subjective perception of it have been poles apart till now. Although the actual proportion of violent offences, in relation to all crimes, is only 3%, and the majority of such crimes are confined to within the group of male juveniles and young offenders in the population, a fact which has been clearly outlined in several places in the Report on Crime, the fear of becoming the victim of a violent crime is very widespread among, for example, those who are less under threat.

The Federal Government takes the fear of crime amongst the citizens of this country seriously. It regards one of the essential tasks of crime policy to be a heightening of the feeling of security among the population, as infringements upon this have far-reaching consequences for society. A person who does not go out into the street any more because she/he is afraid, or who avoids certain places, or who gives up visiting the theatre, concerts, the cinema or bars and restaurants in the evening, suffers the loss of a part of his/her quality of life. A realistic illustration of crime and the dangers which arise from it is therefore important. This Report on Crime also makes a contribution here, by making it possible, through a differentiated illustration of the types of crime and their development, to tell the difference between real and apparent threats, to assess risks more realistically and therefore to counteract a dramatisation of the situation, this being a cause of fear among the populace.

A fear of crime is often specific to local areas – just as the various components which lead to the emergence of crime are – and therefore it must, above all, be targeted by crime prevention activities at local level. The Federal Government will participate in measures, as far as this lies within the range of its possibilities, that could lead to an improvement in the objective security situation and the perception of security in the towns and local communities. One contribution to this is provided, for example, by security co-operation agreements, which have been reached between the Federal Ministry of the Interior and the various Länder with the aim of improving their co-operation with the police. The presence of the security forces at focal points of local criminal activity, which is a substantial aspect of this intensified co-operation, should contribute to a strengthening of the public's trust in security in public places. It is also intended to continue this security co-operation at focal points of criminal activity in the future and to reinforce it, in cases where this is required, in co-operation with the Länder and using the powers of the Federal Border Police.

In the past, there were demands for a stronger implementation of video surveillance measures. In the opinion of the Federal Government, the public use of video surveillance equipment, based on the principles of law, can be used in individual cases as an appropriate means for prevention and for solving crimes or also to reinforce the citizens' perception of security at crime hotspots in public places. The Federal Republic created for the Federal Border Police, within the confines of its responsibility, a special legal regulation for image recording. For the area of general data protection law, the Amendment to the Federal Data Protection Law of 18 May 2001 includes, for the first time, binding regulations for video surveillance. It is valid for both private places and Federal Authorities.

The Federal Government believes that the draft legislation for the amendment of the Surveillance Law, prepared jointly by the Federal Ministry for the Economy and Technology and the Federal Ministry of the Interior, can also contribute to increasing subjective feelings of security among the public. Private security companies also play an important role in maintaining internal security by performing surveillance and

security tasks which do not require the authority of jurisdiction. The draft legislation will define more precisely the legal framework for the activities of private security service employees and secure improved levels of qualification and reliability among such workers, in the interests of citizens.

The crime situation and the public's perception of security may also be positively influenced by measures taken in the environment they live in. For this reason, crime prevention should be paid more attention during the process of urban development. The Federal-Länder programme „Urban districts with special development needs – the social city“ makes an important contribution to this. Federal Government works actively with the Länder and the local authorities in this programme. In addition, increased attention to aspects of crime prevention in the education of town planners, architects and construction engineers would be a welcome development, from the Federal Government's point of view. The Federal Ministry of the Interior has already approached the Chairman of the Joint Commission for the Co-ordination of Studies and Examinations with a proposal to this effect.

1.5 Appropriate Expansion and Differentiated Application of the Existing System of Sanctions

Despite concentrating on primary and secondary preventive approaches, the Federal Government will not reduce its efforts in the area of criminal prosecution. The Government sees crime prevention and prosecution as mutually complementary plans of action, especially since reactions pursuant to criminal law also have the function of preventing convicted criminals from returning to a life of crime. Therefore such sanctions also fulfil the functions of crime prevention.

According to this principle, an effective anti-crime campaign, on the one hand, includes quick and appropriate reactions which make clear that the legal community will not tolerate violations of the law; on the other hand, the Report on Crime emphasises that, according to current knowledge, a tightening of sanctions alone is not generally likely to be successful, either from a general preventive or from a special preventive point of view. Therefore, the principle aim is to expand the existing system of sanctions with the goal of making criminals as tangibly aware as possible of the consequences of their actions while, however, avoiding, if at all possible, such reactions which lead to a disturbance or disintegration of the perpetrators' social bearings. The draft of the heads of departments, now being presented by the Federal Ministry of Justice, on the reform on sanctioning law therefore includes an improvement of non-custodial – without any form of detention – sanctioning options for the area of less severe and petty crimes and, in doing so, it serves, in particular, to avoid the imposition of short prison sentences and imprisonment for failure to pay a fine. In this way, the undesirable side-effects of prison sentences, including desocialisation, should be avoided and the pressure on the prison system reduced.

Encouraged use of community service work, as foreseen in the draft legislation, is aimed at broadening the possibility of getting convicted criminals to experience a reduction in their leisure time and in their freedom to decide where and when they work, while, at the same time, demanding of them that they make amends by assuming social responsibility. Moreover, further plans include raising the status of a driving ban to that of a principal sentence in respect of crimes involving the driving of a vehicle, as well as extending the duration of such bans. In view of the increased importance of mobility, the imposition of a driving ban represents a drastic indisposition for those concerned, as it results in a significant restriction in the free organisation of working and private life. Furthermore, the draft of the heads of departments proposes an extension of a warning with the proviso of punishment and the possibility of a suspension after having served half of the punishment. A more favourable arrangement of the criteria for conversion from fines to imprisonment for failure to pay a fine should also reduce the duration of the period of imprisonment for failure to pay a fine in the interests of fair sanctioning.

What is more, the existing set of legal instruments includes § 46a of the Penal Code, which foresees offender-victim mediation, which is a valuable approach to causing individual criminals to consider the

background and the consequences of their crime, thereby promoting their resocialisation. In the past, the full potential offered by the use of the offender-victim mediation has not been exploited to the full because of a lack of the relevant procedural regulations. Pursuant to the law on the consolidation of the offender-victim mediation in criminal procedure, which came into effect at the end of 1999, public prosecutors and courts of law must now examine, at every stage of procedures, whether offender-victim mediation can be considered. Furthermore, offender-victim mediation was included in the catalogue of conditions and instructions which, when issued, enable the public prosecutor and the court respectively, to suspend a case temporarily and therefore to refrain from a formal charge or conviction. Offender-victim mediation has been made more financially attractive for lawyers.

1.6 Improvement in International Co-operation in the Area of Criminal Prosecution and Crime Prevention

The increasing mobility of criminals who act on a supra-regional level, especially in the area of organised crime – particularly drug trafficking, money laundering, economic crime, human trafficking, smuggling illegal immigrants – means there is an increased need for anti-crime measures across borders and for effective international co-operation.

The basis for this co-operation between the security authorities within the European Union is formed by the Treaty of Amsterdam. It provides for the creation of an area of freedom, security and justice by means of closer co-operation among the police and customs authorities with the involvement of EUROPOL, closer co-operation between judicial authorities and increased harmonisation of prosecution regulations.

From the point of view of the Federal Government, the main task in achieving these aims is the implementation of EU legal instruments in this area and participation in the corresponding EU programmes. A further important aspect is, moreover, bilateral co-operation which is promoted, among other things, by agreements on police and judicial co-operation with neighbouring states, and which also leads to the establishment of an additional level of co-operation – in the case of the police, co-operation in border areas. Finally, bilateral co-operation with neighbouring candidates for accession and supporting measures for the police and judicial authorities in Eastern Europe are also significant. The aim is to bring Central and Eastern European states, in particular the EU accession candidates, up to the level of security in EU member states and to enable the security authorities in those countries to nip international crime in the bud or to tackle it in transit, by supporting them in establishing the means and structures necessary for a state based on the rule of law and the principles of democracy. The technical and training aid, provided to this end by Germany in the past and also in the future, will contribute to developing higher security standards in its neighbours to the East and will therefore also lead to an increase in security in Germany itself. By concluding the German-Swiss Treaty on Police and Judicial Co-operation in 1999, the Federal Government has compensated for the missing EU regulations in its relations with Switzerland. The level of co-operation made possible by this treaty even exceeds the level foreseen by EU law on certain points. Therefore, individual elements of this treaty would be appropriate for inclusion in new regulations in the future, on a European and bilateral level.

One of the most important steps towards international police co-operation in Europe is EUROPOL, which was brought to life as the central office for the exchange of police information and for analysing crime. Significant types of offence, such as illegal trade in drugs or radioactive substances, the smuggling of illegal immigrants, terrorism, vehicle-related crime, forgery and money laundering are already part of EUROPOL's mandate.

EUROPOL's position was reinforced, based on the conclusions reached by the European Council in Tampere in October 1999. In this way, EUROPOL should be empowered to request that member states

introduce, carry out and co-ordinate investigations and it will support joint investigation teams of the member states with its own officers.

The European police Academy, which was founded as a network of the national police training units, will also make a contribution towards making police officers familiar with the instruments for co-operation available to international police when working together.

The European Council also decided in Tampere to set up the joint office EUROJUST, in order to help step up its campaign against serious crime. EUROJUST's task should be to make easier the proper co-ordination of the national public prosecutors. It should also support criminal prosecution investigations, above all in cases connected to organised crime, and especially on the basis of EUROPOL analyses, as well as co-operate closely with the European judiciary network. The necessary set of legal instruments should pass into law by the end of the year 2001. In anticipation of that, the European Council has already decided to set up an interim office for judiciary co-operation, which began its work in March 2001.

With the extensive removal of passport and ID controls within the EU, the individual freedom of the citizens of the Union has been increased substantially. This also brings with it the risk, that criminals use the uncontrolled border crossings within the EU for their own purposes. The Schengen Information System (SIS) is one of the key elements in the equalisation measures which have become necessary among the states which participated in the Schengen Agreement, following the removal of passport controls. Thanks to this search instrument, it has been possible to minimise feared deficits in security, expected after border controls ceased to exist and, what is more, it has even been possible to ensure better security. At the present time, a series of recommendations are being made in the respective EU committees, which are concerning themselves with the question of a further development of the Schengen Security Systems to become the SIS of the second generation (SIS II). Here, technical, police-specific and data protection law aspects will be dealt with, which should serve to help adapt the SIS to meet the growing demands of combating cross-border crime and illegal immigration. Similarly, aspects of the rights of access to the SIS are being discussed. SIS II is also of significant importance, due to its planned inclusion of the Central and East European states, following their accession to the EU. Germany has already introduced a number of recommendations to the discussion.

International co-operation is also becoming more and more aware of crime prevention. Germany supports, in the long term, the initiatives for implementing the measures, decided upon by the European Council in Tampere in October 1999, for the reinforcement of crime prevention on a European level. However, this takes place against the background of national programmes for prevention, as effective crime prevention requires the inclusion of all forces in society in situ. The exchange of information between member states is of great importance for improving crime prevention at an EU level. This should be intensified through the European Network for Crime Prevention, which was set up by decision of the Council of Justice and Interior Ministers of the EU on 28 May 2001 and which begins work in the second half of this year. The European Network for Crime Prevention, which should provide for an exchange of information and experience, as well as establishing contact between the offices and organisations of the EU states responsible for prevention, the Commission and the relevant advisory committees, should be the basic instrument of European crime prevention policy in the future.

2 Recognised Need for Action and Approaches for Finding Solutions in Individual Areas of Criminal Offence

The Federal Government sees in the following individual areas in particular, priorities for future governmental work and more progressive approaches for actively improving the security situation:

2.1 Child and Juvenile Delinquency

According to police crime statistics, there has been a significant increase in the number of registered offences committed by children and juveniles since the eighties. Not until 1999 can we see a slight reduction in these figures. The Federal Government has therefore decided to prioritise in the Report on Crime the development and causes of delinquency in young people, taking special consideration of violent crime, not only to highlight this issue from the side of the offender, but also from the side of the victim. This seems all the more important, as young people – in contrast to the widespread impression of the public – are far more often victims than they are perpetrators and, as potential victims of severe crimes of violence, they deserve the special attention and protection of society.

The report also makes clear that delinquency among children and juveniles is, to a large extent, a typical age-related phenomenon which usually sorts itself out in the due course of growing up and of becoming socially mature. Above all, the legal-criminal conspicuousness of children and juveniles turns into a problem when it becomes repetitive or when it consolidates, leading to a criminal career. One cause for concern, from the point of view of the Federal Government, is far less the total figures with their rates of increase, but much more individual developments, especially in the area of violent crime. It must not be overlooked that the violent delinquency of young people, which is essentially characterised by bodily injury and robbery offences, is mostly committed against peers, so that both perpetrator and victim often belong to one single group in the population - that of male juveniles and young men.

All the more reason, from the Federal Government's standpoint, to encourage relevant discussion about the phenomenon of child and juvenile delinquency, in order to avoid unnecessary stigmatisation of young people because of fear and prejudice. The Government will therefore present, within the framework of its press and public relations work, facts and figures about juvenile delinquency with the necessary sense of proportion. However, it will also be vigilant with regard to possible, actual developments which are cause for concern. This Report on Crime, which has chosen to prioritise juvenile delinquency, also intends to contribute to a more differentiated consideration of this issue. Last but not least, the German Forum for Crime Prevention plays an important role in informing the public about current developments in the way juvenile delinquency is dealt with – especially in the area of preventive work.

The analysis undertaken in the Report on Crime confirms that the emergence of serious child and juvenile delinquency cannot be traced back to one single cause or to a few causes which are independent of one another, rather it is dependent on several factors which are often based on mutual reinforcement. Here we can count, among other things, difficult family relationships, poverty and unemployment, migration background, unfavourable living situation and unfavourable living environment, affiliation to delinquent groups of youths, deviant forms of free time activity connected with this, but also lack of perspectives for the future, toleration of violence as a way of solving conflicts and negative influences from the media.

Efforts to prevent child and juvenile delinquency must therefore be continued, taking into account the various causes. Efforts begin by creating the most favourable conditions possible for children and juveniles to grow up in. This must take place within the framework of social, family, child, youth, employment, education, integration and media policy, and at all levels of state policy and administration (Federal Republic, Länder and local authorities). The successful integration of children and juveniles into the educational system for school and professional qualifications represents an important preventive approach towards finding solutions, especially in the area of the prevention of violence. With its crash programme "100,000 Jobs for Youth", the Federal Government has already made available, since 1999, extensive aid to expand the number of offers of training schemes, qualification courses and work for young people. In the year 2001, around DM 2 billion has also been made available to support young people who are looking for work or for a job training course.

On top of that, all institutions which deal with children and juveniles should co-operate intensively with one another, in order to recognise dangers for children in the early stages and so to be able to combat these with appropriate means. The prevention of violence should be awarded a special position here: within the confines of the individual spheres of responsibility, potential for aggression among children and juveniles must be combated at the earliest possible stage and the creation of an environment designed to diminish violence must be aspired to. Besides intensive education, social and youth-related work, the creation of sufficient cultural and sport facilities also belongs here. This should serve to strengthen social competence, but also to offer alternatives to day-to-day life in problematic social groups. To this end, forms of co-operation among all of the authorities in the communal area offer a particularly suitable framework. Corresponding projects should be evaluated and accompanied scientifically so that we can learn from experience and implement successful measures at other times and places. A joint working group of the Ministers for the Interior, for Justice, for Youth and for Culture has already drawn up a paper containing principles for “Preventive Strategies for the Avoidance of Child and Juvenile Delinquency”. This paper contains recommendations for implementation and strategies for action. It also shows the essential points where the various ministries have overlapping interests, to which the prevention of child and juvenile delinquency must be applied. The European Council also passed recommendations concerning early intervention to prevent the development of a criminal career. The Federal Government is using its influence to draw more attention to this recommendation. Taking into consideration the special quality of the prevention of child and juvenile delinquency, conscious political will is needed at all levels in the future, to include to a greater extent other partners like the family, schools, the economy and the media in efforts for crime prevention.

Besides preventive approaches in the area of child delinquency and juvenile criminality, both present youth court law and – as long as criminal behaviour provides evidence for special education or assistance needed by young persons – the valid law for public assistance to children and young people offers various possibilities for responding appropriately to the delinquent behaviour of young people. The wide variety of sanctions and reactions makes it possible there, where the developmental process of young people requires it, to proceed in a targeted way which is adapted to suit the individuality of each offender. In order to take into account the educational idea anchored in the Youth Court Law, the earliest possible reaction of the police and the judiciary, as well as of the public assistance for children and juveniles to cases of criminal behaviour is required.

In contrast to traditional sanctions such as fines, youth detention and youth imprisonment, non-custodial measures which have an exclusively educational character are afforded more importance here. Other measures which belong here are the previously mentioned offender-victim mediation, which is especially suited to making the perpetrator see at first hand the background and consequences of his/her actions and in helping him/her to come to terms with them, e.g. social training courses or the instruction to subordinate him - or herself to the care and supervision of a care officer.

In cases where it is fitting, educational measures which lie outside the scope of formal procedures, are sufficient as an appropriate reaction (diversion). These measures deserve to have priority because they are, on the one hand, designed to get across fairly immediately the necessary idea that a wrong has been done, and yet are also suited for avoiding the risks of stigmatisation which are tied up with a proper trial and a formal conviction. In addition, if we compare informal ways of dealing with such cases to the use of formal sanctions, when it comes to the prevention of recidivism they have proven that they are, in any case, no less effective and, what is more, they cost less.

Even if the possibilities offered by diversion are being used to an increasing extent, nevertheless the amount to which diversion is used and the range of services offered by the public assistance to young people is very different from region to region. Furthermore, the potential for implementing non-custodial

measures seems by no means to be fully utilised, especially since an institutionalisation of the individual measures has not yet taken place in many of the youth welfare offices. What is on offer is even partially on the decrease or is threatened because of financial or other problems with resources and, until now, the necessary quality standards for assistance aimed at individual needs have not been achieved. Therefore, the Federal Government is encouraging an improvement in the range and quality of measures offered and a standardisation of regional differences in implementation, in order to promote acceptance of informal and non-custodial sanctions. It is extremely important to avoid a situation in which the differentiated range of measures which the Youth Court Law and the Code of Social Law VIII have provided, go to waste in practice, because people are not made aware that such offers exist.

In addition, it is valid for all of the measures on offer, that empirically secured conclusions about their long-term effectiveness – e.g. concerning recidivism and the societal integration of offenders – has only been possible to an unsatisfactory extent up to now. One research project, commissioned by the Federal Government for the evaluation and implementation of social group work and social training courses for behaviourally disturbed and delinquent juveniles, aims to contribute towards closing this gap in our knowledge. The varying methods used in practice are being compared with each other in this study and their effectivity is being examined. At the same time, the Federal Government is promoting the academic assistance and expert evaluation of model projects at a regional (Landes) level for the prevention of child and juvenile delinquency. Included here is, for example, the Non-custodial Intensive Supervision (AIB) project, which is testing a method developed and implemented in the Netherlands for the reintegration into society of conspicuous and especially delinquent children and juveniles. Using individual and more (staff-) intensive non-custodial supervision, juveniles should thus be given the chance of integrating themselves once more into a stable position in society and of leading a life free of conflicts with social institutions or obligatory standards.

Considering the analyses carried out in the Report on Crime, the Federal Government sees no reason for tightening up the criminal law relating to young offenders or for moving towards the implementation of adult criminal law on young offenders at an earlier age. Such demands are usually triggered when individual cases of serious child delinquency and juvenile criminality come into the public eye. The Federal Government is not unaware that there are also juvenile and young offenders who are dangerous and from whom the public must be protected. Nevertheless, these are a very small proportion of criminals; furthermore, the instruments provided for by existing legislation are sufficient for the prosecution of these crimes.

The demands for an extension and tightening up of the Youth Court Law is particularly supported by the idea that this would lead to more effective results in the fight against youth crime. There is no proof for these assumptions in empirical social research. On the contrary, indications exist which point out that renewed delinquency can be more effectively prevented through non-formal (diversion) and non-custodial measures, than could be prevented using the traditional (imposition of fines) and especially custodial sanctions (youth detention, youth imprisonment). As custodial measures, and especially pre-trial detention, can act to permanently impair the development of young people, this should only be made use of as an ultima ratio. Measures offered as an alternative to pre-trial detention can provide valuable support here, so that further lapses of youths can be avoided. The creation of such institutions, which already exist to some extent, is welcomed by the Federal Government.

At this point, a reduction in the age of criminal responsibility from 14 to 12 years – a measure often quoted as necessary to master the problem of delinquency among children – is also categorically refused. That delinquent children consciously abuse their lack of criminal responsibility to commit offences is surely the absolute exception. Actions undertaken by this age-group are particularly characterised by spontaneity and group dynamics. The above-mentioned risk of creating undesired stigmatisation effects

through criminal prosecution and conviction together with the negative consequences thereof (social exclusion, reinforcement of criminal careers) is particularly great in children and young crime suspects. Therefore, in this area too, reactions are appropriate which are primarily aimed at reinforcing awareness of the law and of values, as well as improving the educational and social environment. The law for public assistance to children and young people here offers a series of educational and pedagogical opportunities for reacting to the problem.

2.2 Politically Motivated Crime

The fight against extreme right-wing tendencies is one of the internal political priorities of the Federal Government. The urgency of this task has been highlighted in the growth in the number of extreme right-wing, xenophobic and anti-Semitic offences since the beginning of the nineties, above all, however, in the second half of last year. Particular cause for concern comes from the increase in the number of violent offences, that is, homicide and offences of physical violence, as well as arson and offences using explosives and breach of the public peace. These crimes are committed, to a considerable extent, by juvenile and young offenders. Besides the security situation, the growth in right-wing extremism greatly shapes, above all, people's perception of security and public discussion. With regard to this problem, it can be positively noted, that the rate of cases solved in extreme right-wing crimes of violence is well above average, at 74%.

Past experience has shown that the fundamental criteria used for police registration up to now, based on the term "extremism" and used to classify all politically motivated crimes, are not sufficient and/or have led to differing evaluations and allocations when registering such crimes. Furthermore, the targeted and successful campaign against extreme right-wing, xenophobic and anti-Semitic violence demands a realistic system for the registration and evaluation of all politically motivated crimes which is uniform for the whole Federal Republic, and especially for those crimes which are committed out of a mentality which glorifies violence or which feels contempt for people who belong to particular groups within the population and/or against people who are conceived to be different in some way. For this reason, a joint group project of the Federal Republic and the Länder is presently drawing up recommendations for improvements to the registration and evaluation criteria, on the initiative of the Federal Ministry of the Interior. From January 2001, politically motivated crimes and therefore xenophobic and extreme right-wing offences will be statistically registered and evaluated using a new and improved system of definitions under the title of "politically motivated crime". The aim is to guarantee that all incidents, eligible for registration according to criteria uniform for the whole Federal Republic, are registered and evaluated in the local police departments of the Länder by the department specifically responsible for this mandate, and are then reported to the Federal Criminal Police Office within the framework of procedures which are standardised for all Federal States. The Federal Government will make use of all the means at their disposal to provide protection against the threats which are caused by right-wing extremism and xenophobia and to repress them. Active approaches for strengthening civil society and civil courage as well as the encouragement of integration are part of this process. However, measures which are directed towards the offenders and their environment must also be included. These aspects have already been taken up in various initiatives, in various ways – above all, at a regional and communal level. It is the Federal Government's opinion, that activities which are carried out there, where the problems actually exist, have the best chances for success.

The motto "*strengthening civil society and civil courage*" is aimed at encouraging a situation where all social groups can live together peacefully, tolerant and respectful of each other – people who were born here, immigrants, people belonging to majority social groups and minorities. This requires a heightening of civil vigilance. Citizens should be encouraged to take a clear stand against extreme right-wing inci-

dents and contents propagated by right-wingers on the Internet, as a sign of their committed support for democracy and tolerance. They must also be encouraged to report such incidents.

The “*Union for Democracy and Tolerance – against Extremism and Violence*” which was founded in May 2000, pursues these objectives by uniting state organisations and forces within society. This union should help to strengthen the principles of human dignity, democracy and tolerance as well as encouraging all the people of Germany to live together in harmony and with mutual respect for one another.

Furthermore, the Federal Government will support this cause through a series of preventive measures which will include activities in the areas of youth-oriented publicity, public awareness campaigns and educational work. The Federal Government makes available DM 50 million annually, from the finances of the European Social Fund, for the project “XENOS Living and Working in Diversity”. The aim of this project is to bring together measures to combat unemployment with substantial approaches against xenophobia, intolerance and racism. In connection with this, non-German youths should also be included in the project.

On top of this, additional financial means amounting to DM 30 million have been reserved from the Federal Budget in 2001 to support measures against violence and right-wing extremism. A further DM 10 million are to help set up and support initiatives against right-wing extremism as well as to advise victims and/or potential victims of right-wing crimes and violence in the new Länder. Definite programmatic ideas were and will be worked out and implemented in co-operation between the Länder, the local authorities and independent partners. Furthermore, an additional DM 10 million have been made available from the 2001 budget of the Federal Public Prosecutor at the Federal Court of Justice as a hardship fund for victims of extreme right-wing attacks.

Projects which are part of political education work also direct their energies not least towards the institutions of the Civil Service. If we take the German Federal Armed Forces as an example, it becomes clear that the area of the Civil Service deals with this entire range of societal problems and actively combats xenophobic and extreme right-wing intentions and actions, even if those are not subject to criminal prosecution. With a high level of commitment, a corresponding awareness of the problem is created among the new recruits, above all concerning the measures carried out by the government’s political education programme, and in this way extreme right-wing/xenophobic misconduct is counteracted in the Armed Forces. The training and education curriculum for the Federal Police Force also aims to convey to the officers the required awareness, attitude and demeanour which is appropriate for the role and the responsibilities of the police in a free, democratic and social state governed by the rule of law.

The Federal Government sees, in the *Encouragement of Integration* not only a deciding factor for people born here and non-Germans to live better together, but also an important building block for the prevention of right-wing extremism and xenophobia. The Government is of the opinion, that essential measures for integration are the advancement of language learning and an improvement of professional training opportunities for young foreigners and ethnic Germans from abroad, which must be extended. *Measures, which are directed at the offenders and their environment* must also be included in the campaign against extremism. Extremist offenders must be prosecuted uncompromisingly and punished quickly. The basis for this is an easier identification of the perpetrators. For this purpose, the Standing Conference of the Ministers and Senators of the Interior for the Länder (IMK) decided in autumn 2000 to set up a Germany-wide data base titled “Violent criminals left-wing/right-wing/xenophobic crime”. Furthermore, the co-operation between the security authorities of the Federal Republic and the Länder must be optimised, for example, in the fight against hatred and right-wing extremism on the Internet. The Federal Office for Criminal Investigation will intensify its efforts, above all, in the area of incident-unrelated research on the Internet. The Federal Border Police (BGS) will also continue to be involved within the framework of the

possibilities afforded them by the law, especially by making their presence clear and through controls at known focal points of criminal activity. Since September 2000, all BGS offices have been taking calls over a hotline, where citizens can provide information about extreme right-wing activities, threats and acts of violence in the area of train stations and in trains.

Programmes for those wanting to leave the extreme right-wing scene should serve to help those who are involved in it find their way back to legality. The Federal Government regards such programmes as an important contribution towards the fight against right-wing extremism. The Federal Government's programme of this type, which was introduced by the Federal Minister of the Interior, is aimed at any individual who wants to "get out" – leading figures and key figures, but also "nominal members" of the scene. A further approach should also prevent sympathisers drifting into the extreme right-wing milieu. By providing real offers of assistance, like, for example, help with finding a flat or a job, those among them who are eager to leave the scene should be drawn away from their hitherto environment. First of all, in conjunction with other model programmes, including those from the Länder, an approach must be found, which leads to the widest possible inclusion of all those institutions (Office for the Protection of the Constitution, Police Force, Judiciary, local authorities) and private institutions, whose members are able to establish the necessary contacts in the right-wing scene, but who can also approach those potentially wanting to leave the scene with offers of help and advice. The initiative should also be a further step towards unnerving and weakening the extreme right-wing scene.

In order to effectively combat the dissemination of hatred and xenophobia in co-operation with other nations, but also in co-operation with the economy and Internet users, the Federal Ministry of Justice organised an international conference from 26 to 27 June 2000, together with the Friedrich-Ebert Foundation and the Simon Wiesenthal Centre of Los Angeles, about the campaign against the "dissemination of hatred on the Internet". At this conference, the so-called "Berlin Declaration" was passed, which clearly sets out that crimes on the Internet and the global dissemination and commercial exploitation of hatred on the Internet will not be tolerated, and the following principle remains valid: that which is prohibited offline, must also be prohibited online and must be prosecuted. It is the aim, first of all throughout all of Europe, and then on a global scale, to establish agreement on certain basic principles and at the same time to agree upon penal provisions which are valid everywhere and which determine that the dissemination of hatred on the Internet, of xenophobia and of the persecution of minorities is punishable throughout the world and will be prosecuted everywhere. Here, not only national legislatures are encouraged to co-operate, but also users of the Internet, civil society interest groups and the economy. They should each take on responsibility in their own fields through voluntary self-monitoring.

Studies in the Federal Ministry of Justice have shown that the existing laws, together with judicial instruments, are principally sufficient, with regards to both substantive law and procedural law and are able to guarantee appropriate prosecution. The penal provisions in §§ 86, 86a and 130 of the Criminal Code (StGB) amended or newly introduced in 1994 have basically proved successful. Next to the general penal provisions for the protection of life and health (§§ 211 ff., §§ 223 ff. StGB), which were improved substantially, as well as being tightened up in 1994 and 1998, they provide a significant and unrenounceable contribution to the determined campaign against right-wing extremism and xenophobia. As has been the case up until now, it is decidedly necessary to utilise the existing penal provisions consistently in practice, in order to make full use of the range of punishment made available by the legislature. The propaganda offences laid down in §§ 86, 86a and 130 StGB can be punished with imprisonment of up to three or five years; in the case of active physical attacks, more severe punishment threatens. The fact that no requirements for action are presently given by the legislature does not change the fact that the Federal Government, based on experiences gained in the past, will continually examine whether, and if necessary, which

measures from the provisions of criminal law against right-wing extremism and xenophobia can be developed further in the future.

The Federal Court of Justice, with its decision from 12 December 2000, decided that, in the case of the incitement to hatred and violence against segments of the population or minority groups through the dissemination of such propaganda on the Internet, a domestic offence exists when a person's own statements are put into the Internet abroad. In the case of potentially abstract endangerment offences, such as incitement to hatred and violence against segments of the population or minority groups, this also constitutes a domestic offence, according to the will of the legislature, when the statements on the Internet can be accessed here. The decision of the Federal Court of Justice is in keeping with the opinion, which has always been advocated by the Federal Government, according to which, incitement to hatred and violence against segments of the population or minority groups using the Internet is a punishable crime under German law.

The question is currently being examined, whether the jurisdiction of the Federal Public Prosecutor should be expanded to include proceedings of the first instance in the area of right-wing extremism for crimes which have been committed out of xenophobic sentiments. The Federal Court of Justice confirmed in its judgement from 22 December 2000, that the Federal Public Prosecutor is already competent for certain right-wing extremist crimes. The Federal Ministry of Justice is also examining whether, in cases of the dissemination of hatred on the Internet, the different and sometimes very short limitation periods in the press laws of the Länder should be made uniform. Both examinations pose various resulting legal problems – also those of a constitutional legal nature.

In order to achieve long-term successes in the campaign against racism and xenophobia, we must act on an international, and especially on a European level. On the initiative of Germany and France, the European Union has occupied itself increasingly with the campaign against right-wing extremism and xenophobia since 1994. One result of these initiatives is the setting up of the "European Monitoring Centre on Racism and Xenophobia" in Vienna, whose main task is a critical examination of the extent and development of racist, xenophobic and anti-Semitic developments in the European Union. This organisation is important in the campaign against and in the protection from right-wing extremism and xenophobia.

A further achievement is the Joint Measures for the Campaign against Racism and Xenophobia decided on by the Council in 1996, with which co-operation between states in the campaign against racism and xenophobia should be improved. The report on the results of this should be made available some time this year.

It remains to point out that – in contrast to the prevailing impression in public discussion in the last months that policies in the area of right-wing extremism have been one-sidedly oriented towards right-wing extremism – those concepts which were compiled in the most recent past to combat political extremism generally take into account all politically motivated crime, including crimes against the security of the state.

In this context, we must refer to the Law for the New Regulation of Restrictions to Letter, Post and Telecommunications Secrecy for which the Federal Ministry of the Interior is responsible, and which reinforces possibilities of the respective ministries to defend themselves against threats to the liberal and democratic fundamental order and the security of the Federal Republic and the Länder. Thus the Federal Office for the Protection of the Constitution is provided with further methods for defending itself in the campaign against extreme right-wing activities. Furthermore, in the future it will be possible to dispense with the assumption of the existence of a firmly established group of perpetrators in the case of certain serious criminal offences of the violent extreme right and left-wing scenes.

What is more, the entire area of politically motivated crime is also included in the revision of the “Directives for the Criminal Police Incidents-based Reporting System in Cases of Politically Motivated Crime (KPM-D-PMK)”, as is the IMK-decision from autumn 2000 concerning the setting up of a data bank of violent offenders or also the new version of the “Rules for Co-operation between the Federation and the Federal States in Combating Terrorism and Politically Motivated Crime of Nationwide Significance”.

2.3 Sexual Offences

Throughout the nineties (until 1997), the police registered a growth in the number of crimes in the area of the sexual abuse of children. This increase, however, can primarily be traced back to an increase in the number of people who reported such a crime and in the number of cases solved, and is thereby due to more light being shed on undetected crime. At the same time, analyses carried out in the Report on Crime have shown that the number of cases of the sexually-motivated murder of children are on the decline.

The helplessness of the victims and the far-reaching physical and psychological consequences make the sexual abuse of children, the commercial exploitation of children (sex tourism) and child pornography in all of their manifestations, a field of crime which must be assured the very special attention of all levels of society. In addition to this, these crimes move the people of this country to a great degree and lead, in some ways, to a great feeling of insecurity. The Federal Government will therefore not lessen its efforts and will emphatically support the investigation and prosecution of these crimes, offering support, above all, for preventive measures.

From the standpoint of protecting the victims and of prevention, the Federal Government assumes that the provision of the necessary places in socio-therapeutic custody which were demanded by the Law for the Campaign against Sexual Offences and other Dangerous Crimes from 1998, will be completed by the year 2003.

From a repressive, but ultimately also from a preventive standpoint, DNA analyses are also of great importance, as they can alleviate considerably the conviction of sexual offenders. Since the introduction of a data base on DNA analyses by the Federal Criminal Police Office in 1998, a variety of crimes, which to a certain extent have come to enjoy a substantial degree of interest among the public, can be solved with the help of this instrument. It has even been possible, in individual cases, to ascertain the guilty party many years after the crime was committed and after it was thought that it would never be solved. In the face of the great significance of DNA analysis for the fight against crime, it is necessary to ensure that the corresponding opportunities for storing data are used consistently.

Within the confines of the EU, the Federal Government is working on the drafting of a skeleton resolution to combat child pornography and sexual exploitation. Regulations are foreseen, above all in the areas of substantive criminal law (e.g. penalisation obligation, harmonisation of punishment, jurisdiction) and of victim protection.

Furthermore, the work programme, published by the Federal Government against child abuse, child pornography and sex tourism in connection with the 1st World Congress against the Commercial, Sexual Exploitation of Children, is to be further developed on a continual basis. This programme contains a broad spectrum of measures for solving and preventing such crimes, for the legal field, for international prosecution and for victim protection. Prosecution must not stop at national borders. Efficient, international co-operation between the criminal prosecution and police authorities is absolutely essential. The supplementary protocol of the UN Convention on Children’s Rights which has already been drafted makes an important contribution here with regard to the sale of children, child prostitution and child pornography. To that are added, for example, information campaigns, such as those carried out with the support of the Federal Border Police at the Czech-German border to combat sex tourism and child abuse.

2.4 Internet Crime

The ways in which criminals proceed in the area of the Internet range from child pornography, the incitement of hatred and violence against segments of the population or minorities, the dissemination of extreme propaganda to the fraudulent purveyance of goods, services and financial investments. Furthermore, the attack on the security and integrity of data is becoming increasingly important. In order to combat the abusive utilisation of the Internet as an instrument of crime and to guarantee the intactness of data banks, the Federal Government will continue to intensify the measures it has already introduced on a national level. This includes, for example, the reinforcement of the incident-unrelated research of the Federal Criminal Police Office which is currently being carried out; a further step is the use of automatic procedures for seeking and securing criminal contents. In February 2000, the Federal Minister of the Interior called into being the task force "Secure Internet", which, with the support of the Federal Office for Security in Information Technology and the Federal Criminal Police Office, is developing strategies for protection against computer viruses and attacks on Internet service providers. Here it is necessary to examine the type and extent of the threat in Germany, and to come up with the necessary countermeasures in order to thus render damages to our information society more difficult and, best of all, to prevent them. Actual projects, for example the construction of a national infrastructure of computer emergency teams (CERTs) and the identification and protection of critical communication points on the Internet, are making a significant contribution towards crime prevention. In addition, the awareness of medium-sized businesses in the economy and other users towards more IT-based technology is being heightened through joint initiatives of the Federal Ministry for Economics and Technology and the Federal Ministry of the Interior. These have been given the name "Partnership Secure Internet Economy".

Furthermore, the effective campaign against Internet crime provides good reason for an examination of the legal framework. This is also valid for supplementary regulations in the area of criminal law and criminal procedural law. In face of the many hacking attacks, which also assist in the preparation of other crimes, it would do well to consider here, whether merely breaking into a computer system by breaking through security measures should be made punishable. The provision and ownership of appliances, which serve to aid in the committing of computer offences (e.g. virus programs), have up to now not generally been punishable. A future possibility for prosecution must also be examined here, whereby exceptions must be made for the manufacturers of anti-virus programs. Acts of sabotage, such as DDOS attacks/spamming are only punishable with regard to companies, firms and authorities at the moment. Here, a widening of the protection under criminal law to include the private sphere must be taken into consideration, as data processing installations are becoming more and more significant in this area.

In this case, an extension of the protection offered by criminal law for the private sphere must be taken into consideration, as data processing installations are becoming more and more significant. From the standpoint of criminal proceedings, the effectivity of the already existing instruments for investigation, especially with regard to the localisation and identification of offenders must be re-examined. Of particular importance here is, above all, the fast securing of data tracks and the rapid tracing of them back to the computer which left them behind. All in all, the material and procedural standards which are intended as part of the agreement on data network crime (so-called Cyber Crime Convention) in the Council of Europe should – insofar as they are necessary – be realised under national law. In addition, the statement on the improvement of the security of information infrastructures and the campaign against computer crime, published by the EU Commission in January 2001, as well as the statement published recently on network security contain, in the opinion of the Federal Government, approaches which it would be worth examining.

The campaign against data network crime cannot be based on this alone however. It must be accompanied by measures which guarantee a regulated and trustful co-operation between the world of business – espe-

cially providers and network suppliers – and the criminal prosecution authorities. The Federal Criminal Police Office maintains, for these purposes, close contact to the companies from the field of information and communications technology, to mobilise self-control on the part of the suppliers and to initiate joint procedures against high technology crime. This dialogue will be continued and intensified in the future.

The global character of new media means that national approaches to dealing with problems are not sufficient. These must also be complemented by international measures. The Federal Government therefore actively takes part in the work and in the discussion groups of various international committees, at EU, Council of Europe, OECD and G8 level, in order to achieve better co-operation in the fight against Internet crime. Special significance must be granted to the draft version of the above-mentioned agreement on data network crime from the Council of Europe.

2.5 Immigration and Crime

The great majority of non-Germans resident in Germany keep within the bounds of the law. This is especially true of those, who have lived in Germany for many years or who grew up here and are to a large extent integrated. Insofar as the police criminal statistics and the statistics for criminal prosecution are able to convey the impression of comparatively higher criminal involvement among non-Germans, it must be taken into consideration, that the registered amount of criminal offences can only be conditionally placed in relation to the proportion of non-Germans in the resident population, particularly as different groups of foreigners are not included in the statistics for the population, and immigration and emigration movements are often very difficult to follow statistically. Another factor is that about one quarter of non-German crime suspects committed crimes against the Foreigners Act or the Asylum Procedure Act, that is, against penal provisions which can, more or less, only be violated by foreigners. Furthermore, it must be taken into consideration that foreigners show, to some extent, a specific age-structure as well as strained social factors, such as lack of professional training and/or unemployment, which also increase the risk of criminal conduct among Germans. One aim which is of prime importance is the elimination of these negative social factors. For several areas of crime, for example, drug-related or organised crime, it remains to be determined however whether foreign offenders commit these crimes more often.

The Federal Government regards the improvement in the underlying conditions for living together in society as a substantial contribution to combating crime among non-Germans and ethnic Germans from abroad. It will therefore continue its policy of integration and will further individual measures, especially those for improving language skills and professional stability. One important building block in the policy of integration is the Federal Government's reform of the citizenship law, which became law in January 2000. This model makes it possible for children born in Germany of non-German parents to identify themselves more with Germany. It is important to inform people of the new situation, in order to encourage their willingness to integrate. Both the Federal Government's Commissioner for Questions Concerning Foreigners and the Federal Ministry of the Interior have taken this task on board, together with the welfare associations.

The Federal Government hopes to be provided with further important impulses for the creation of immigration and integration policies for the future from the independent commission "Immigration" which was called into being in September 2000.

2.6 Organised Crime

Although the Report on Crime confirms that Germany is far from being in the same situation as other parts of the world, in which organised crime has already taken on dimensions which undermine the state and democracy through the involvement in organised crime of decision-makers from the areas of politics and the economy, nevertheless, organised crime poses, in its tendency to create niches for itself through threats and violence, a danger for the whole of society which must not be under-estimated. Therefore,

both national and international developments must be followed carefully, so that these kinds of circumstances do not come into being in Germany.

In the past years, the legislature has adjusted and extended the legal instruments for the campaign against organised crime in many points, for example through the money laundering law and the law for improving the fight against organised crime from the year 1998, which created the opportunity of using technical surveillance systems in residential areas for the purposes of crime prosecution. In the future, it will be a priority to use these legal possibilities to the full in practice. Additionally, a Federal-Länder task force – based on an initiative of the Bundesrat – is working on the draft version of a law for the harmonisation of the regulations for the protection of witnesses in danger. This will be sent to the Bundestag as the statement of the Federal Government on the original bill from the Bundesrat. The main concern is to create clearer legal principles for the implementation of important measures for witness protection, such as the issuing of false documents and the setting up of a transmission barrier for stored data. These regulations would not be limited to cases of organised crime, but would also apply, in particular, to selected cases of serious criminal offences.

Over and above the use of repressive measures however, we must also develop specific preventive approaches for the fight against crimes of this type. Here, most important of all, is to attempt to break up the logistical structures of criminal organisation, making use of detailed information about the structures, fields of activity and behavioural patterns thereof. This can be achieved by, for example, impeding the flow of information within the organisations, by controlling the procurement and transport routes of illegal goods, and by diminishing the markets in the respective areas of crime. In connection with this, special emphasis must be given to a weakening of financial structures. Measures for preventing money laundering, as well as the absorption of illegally obtained wealth, deprive organised crime of the financial means for the continuation and expansion of their activities and impair immediately the profitability interests. This means that the organisations will be hit at their most sensitive point. Therefore, in their day-to-day practice, the investigating authorities have to not only work towards convicting the guilty, but must place just as much emphasis on the absorption of illegally obtained wealth. The model projects which were recently initiated in various Länder, and which were concerned with special educational and training measures and the heightened efforts of specialised investigative teams for improving the possibilities for absorbing criminally-obtained profits, were greeted enthusiastically by the Federal Government and have already led to a significant increase in the amount of assets seized. All the same, the valid laws must continue to be examined as to their effectivity, also in the area of the absorption of profits.

The campaign against human trafficking, the victims of which are almost exclusively women, also demands co-ordinated procedures from all relevant institutions on both a national and international level.

On an international level, the supplementary protocol „Campaign against Human Trafficking“ to the United Nations agreement on the fight against trans-national organised crime and signed by Germany in December 2000, provides an important basis for a joint definition of terms and intensified international co-operation. The draft of a skeleton resolution from the EU for combating human trafficking, which has achieved wide consensus up to now, also goes in this direction.

At a national level, a Germany-wide working group, Trade in Women, has been founded to intensify and co-ordinate co-operation. Working together in this group are not only various Federal and Länder departments, but also the Federal Office for Criminal Prosecution and non-governmental organisations, in order to combat more effectively human trafficking in Germany and to support the victims. This working group has already come up with a series of measures which benefit equally both the victims and the prosecution of crime. Part of their work includes, among other things, a concept for co-operation which will help the police and special advisory organisations to work together to protect and look after victims who are wit-

nesses, as well as a directive issued to the Federal Office for Employment by the Federal Ministry for Employment and Social Order, within the framework of this co-operation, to issue work permits to victims who are witnesses, without a period of waiting.

In order to counteract the threat posed by organised crime effectively and on a long-term basis, all of those responsible for internal security, i.e. the Federal Republic and the Länder, are called upon together to permanently examine national and international concepts for fighting organised crime and to adapt to developments in this field of crime.

2.7 Economic Crime

The Report on Crime once again shows that economic crime is difficult to define. This is because of the many forms in which it manifests itself and not least because of its dependency on developments in the economy, in technology and in society as a whole as well as its dependency on civil and legal administrative regulations. According to the Police Crime Statistics, the proportion of economic crime in relation to all registered crime is very low. However, one must take into account that, next to the high number of undetected crimes, many types of offence are not reliably and sufficiently accounted for in the statistics. The reasons for this are complex. On the one hand, an exact definition of economic crime does not exist. On the other hand, the Police Crime Statistics (PCS) and the statistics for criminal prosecution in German commercial law, for example, do not record crimes which are committed in breach of an administrative rule, although these are significant as far as quality and quantity is concerned. The PCS, furthermore, do not record those cases directly dealt with by special public prosecutors and the tax authorities. The special threat which is posed by white collar criminal offences, which are responsible for, beside high material damages, above all, non-material damages, must not be underestimated. Economic crime can endanger the social and economic structure of a state and impair the trust the population has in the proper functioning of it. Therefore, the Federal Government attaches special significance to the fight against economic crime.

Effective criminal prosecution and crime prevention are dependent on the early recognition of the manifold forms of this crime, and above all, on the early recognition of supra-regional, Germany-wide and international connections. As has been highlighted in the Report on Crime that an improvement in both co-operation between the various sources of information and in the co-ordination of available data bases is necessary. A first step in this direction was undertaken at the beginning of 2000 with the modification of the police exchange of information concerning economic crime. In addition, the Federal Criminal Police Office, in co-operation with the criminal authorities of the Länder have, for the first time, drawn up a situation report on economic crime for the Federal Republic for the year 2000.

Economic crime must be counteracted, first and foremost, through preventive measures. Educational measures, measures for self-monitoring and self-protection must be awarded the same level of priority as the intensive use of civil legal and police actions. Already existing conceptional considerations for the preventive campaign against economic crime, like the ideas put forward by the Federal Criminal Police Office and the criminal authorities of the Länder on the "The Pro-active Campaign against Economic crime", which strive to achieve the early recognition of potential threats and types of offence, are presently being voted upon in the respective committees of the Federal Republic and the Länder.

The legal instruments for the campaign against the various forms of economic crime are characterised by the variety of facts in criminal cases both in and outside of the Criminal Code. The focus of applications lies in the area of fraudulent offences, breaches of trust, falsification of documents, tax and social security contribution fraud, and bankruptcy offences. Changes in the economic/technical area and the appearance of new forms of criminal conduct also give good reason in the future for the Federal Government to take up initiatives for legal and other measures in both the preventive and repressive areas. Here, devel-

opments at the level of the European Union and on a greater international level also provide contributions. Examples for this are international legal instruments for combating (international) corruption, Internet and computer crime, as well as environmental crime.

2.8 Drugs and Crime

The Report on Crime underscores the Federal Republic's multi-disciplinary, comprehensive approach to policies on drugs and drug addiction, the basic principles of which provide an all-round concept for the containment of drug abuse in Germany.

In the last two years, the Federal Government has undertaken various initiatives for the containment of addiction-related problems, based on the coalition agreement. The extension of the drug aid system, the legal safeguarding of drug consumption units, the opportunity of quality security in the entire Federal Republic in methadone treatment, and a model attempt at the heroin-supported treatment of opiate addicts are all examples which show that the path is being cleared towards rational and progressive drug policies. At the same time, this helps to counteract the pressure of drug procurement and the crime related to this.

A further cornerstone of the Federal Government's drug and drug addiction policies is the prevention of addiction. This must include, among other things, a strengthening of the attitudes, capabilities and conduct of young people in particular, in co-operation with the Federal Central Office for Health Education. Besides the further requirements of the scientific discussion, the Federal Government will, above all, continue to pursue the measures and projects already introduced in agreement with the Länder and the local authorities.

At the present time, however, the Federal Government has been observing two developments with some concern: on the one hand, this is related to the increase in the number of deaths related to narcotics-abuse in 2000 compared to the previous year. In addition, the number of registered cases of the seizure of ecstasy tablets, the amounts which were seized and the number of people who used these synthetic drugs for the first time all increased in the year 2000. This development must be met with differentiated concepts as well as, above all, with preventive measures. This must include existing projects, which should also be examined for effectivity.

According to the Federal Government's understanding, the criminal prosecution authorities must also be provided with a differentiated spectrum for action – especially with regard to juvenile and young offenders. According to estimates of the Federal Government, the regulations as set down up to now in § 31a of the Narcotics Law (and sections 45, 47 of the Youth Court Law respectively) which provide the opportunity of dispensing with prosecution through the offices of the public prosecutors and/or the opportunity for the courts to drop a case in their practical application have proved their worth. Section 31a of the Narcotics Law covers, among other things, the possession of small amounts of drugs for one's own consumption, i.e. where the perpetrator's guilt is negligible, a constellation also considered by the Federal Constitutional Court in its "Cannabis Decision" of 1994. At that time, the Federal Constitutional Court expressly granted the legislature, with regard to the need for criminal sanctioning of such cases, a discretionary prerogative. Even if the potential danger of using cannabis has, according to more recent scientific findings, been shown to be more negligible than was thought at the time when the law was passed by the legislature, there still remain however, also in line with present knowledge concerning cannabis, considerable dangers and risks. As especially the number of young people who are at risk with regard to their consumption behaviour and the number of clients in advisory and treatment centres who are being treated for primary cannabis problems has risen, the Federal Government does not intend to lift the basic, punishable ban on the possession and buying of cannabis – even taking into consideration the attitude of the international community and Germany's obligations under international law.

The Federal Government is also aware of the fact that, in the area of anti-drugs policy, national measures for combating this phenomenon are not nearly adequate enough. For this reason, Germany has played a decisive role in updating the Drug Action Plan of the European Union and occupies positions in the various committees. These operate on a European and international level and are committed to protecting people against the abuse of illegal drugs as well as of legal drugs like alcohol. The co-operation within the framework of the European Monitoring Centre for Drugs and Drug Addiction (EBDD) should be placed on firm foundations through joint strategies for dealing with drug-related problems.

The First Periodical Report on Crime and Crime Control in Germany can be accessed in both the full and abridged versions at the following Internet addresses:

<http://www.bmi.bund.de>

<http://www.bmj.bund.de>
