

CRIME PREVENTION, PROSPECTS AND PROBLEMS: THE CASE OF EFFECTIVE INSTITUTIONAL VERSUS COMMUNITY- BASED TREATMENT PROGRAMMES FOR PREVENTION OF RECIDIVISM AMONG YOUTHFUL OFFENDERS

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I. INTRODUCTORY REMARKS

According to functional theories of punishment in law, punishment is not to be considered as an end in itself. As for example Germany is concerned, the highest criminal courts in the country purport in their doctrinal terminology that administering criminal law may only be justified when it simultaneously proves that it is a necessary means for fulfilling the protective function of criminal law as a method for crime prevention. So criminal law shall ensure conditions for citizens that enable them to live peacefully together, and it shall contribute to peace in society under the control of the law. It is interesting to note so far that the central authorities among the growing European Union introduced, a few years ago and within the realm of the so-called “Third Pillar” of the EU (= Matters of Justice and Home Affairs), a kind of holistic concept. Along this concept the EU shall continuously strengthen its capacity or capability to offer its citizens an “Area of Freedom, Security and Justice for All”.

An important criterion for the efficacy of criminal law as a core means of formal social control is the extent to which ex-offenders continue to conduct themselves within the confines of the law. Most societies in our present world put particular emphasis so far on juvenile or young adult offenders, since among them the future and potentially dangerous career criminals are to be found, and in the long-term perspective a society may harvest the most enduring positive effects when it can prevent the early onset and the extended endurance of such careers.

II. PUBLIC CONCERN ABOUT RISING JUVENILE CRIME

At least in Europe during the year 1990 et seq. officially registered youth crime rates, especially regarding violent offences, were on the increase. This caused an intensive and sometimes even heated debate in the public sphere, and in federal and state parliaments, about the need for new methods for dealing with that problem. Various demands occurred in the political arena for stricter reactions, and particularly stiff penalties, against young offenders. Some asked for diminishing of the lower age of criminal responsibility from 14 to 12 years of age. Others opted in favour of treating young adult offenders in the same way as full adults under criminal law, which means they tried to change the existing German Youth Court Law allowing Juvenile Judges to handle 18 to < 21 year olds either way: Like juveniles (14 to < 18 years of age) or like full adults (21 years or older).

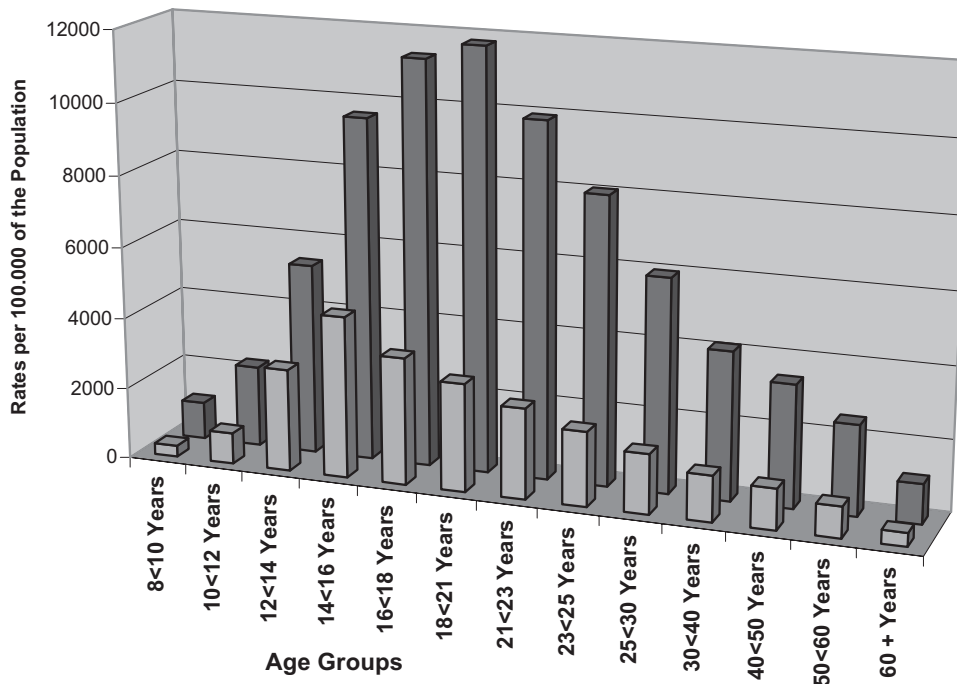
III. TRANSFERRING JUVENILES TO ADULT CRIMINAL COURTS

The introduction or expansion of systems of “waiver decisions” or “transfer decisions” in the U.S.A. where (sometimes very) young offenders can or must be sent to the adult criminal law courts and treated accordingly as if they were really adults can be regarded as the most expressive form of this new wave of “getting tough”. In the United Kingdom, the Blair government became somehow famous for its anti-crime slogan with which it aimed to follow the American model in a modified and more socially inclusive way. This slogan is going like follows: *“Tough on crime, but also tough on the causes of crime!”* This type of penal/correctional philosophy seems to overemphasize the problem of juvenile delinquency and youth crime at large. The so-called age-crime-curve which is depicting the rate of persons as coming into conflict with the criminal law (usually measured by getting caught by or reported to the police authorities, and then recorded for the crime statistics) aptly shows the following: Juvenile delinquency is rather steeply rising

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among male youngsters when they reach the age of puberty; the peak of the relevant age-crime curve usually oscillates around the end of high school years respectively around the upper age of juvenile court jurisdiction, i.e. somewhere between 17 and 20 years of age. Figure 1 gives an impression of how the distribution of crime is age and gender dependent in the Federal Republic of Germany. One should note that the basic structure of that curve did not change during the last decades. What changed was that the value of the rates in the younger (male) age groups showed, so to speak, “more of the same”.

Figure 1:
Age-Crime Curve in Germany
(Source: H. J. Kerner, based on Police Crime Statistics 2002)

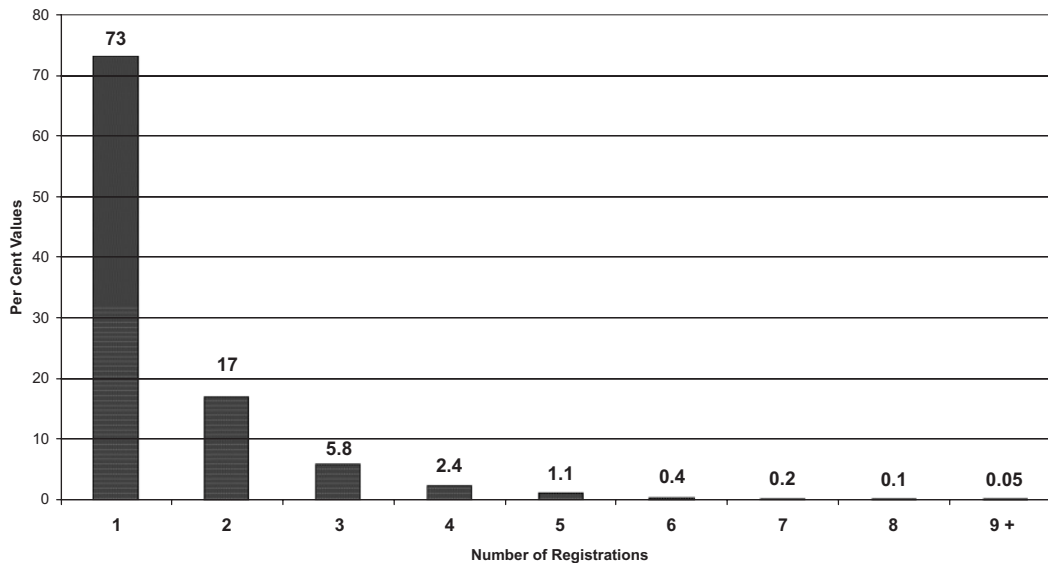


IV. DOMINANCE OF OCCASIONAL OFFENDING AMONG YOUNGSTERS

Many studies in different countries show, that still today - as probably ever before except severe crisis situations in whole states and economies – a great majority of young people commit some kind of petty offences during adolescence at some point of their personal development which may or may not be connected to difficulties in one or more socio-psychological areas (e.g. leisure time contacts, friendship, love relations, family, school, vocational education). Usually such one time or occasional offenders, alternatively called “adolescent limited offenders” along the theory as developed by Terrie Moffitt, do not enter into a criminal career. So far it may be of particular interest to consider selected results of a large study done in Germany by Prof. Heinz and his collaborators. The scholars managed to get access to the central criminal history registry in Germany as run by a special office of the Federal Prosecutor General. It is worth noting in that respect the following regulation which intends to enhance the rehabilitation of young offenders: As far as juveniles in the legal-technical sense of the term are concerned, i.e. all those young offenders from 14 to less than 18 years of age, they are registered in that registry only when and if they have been punished with the stiffest penalty available in German Youth Court Law, namely the so-called youth imprisonment. This penalty ranges from a minimum of 6 months to a standard maximum of 5 years of internment in a youth prison. Under exceptional circumstances (only) a specialized and qualified youth court, i.e. the so-called youth chamber at the regional criminal court, is being entitled to expand the frame of sanction, and to impose a penalty of youth imprisonment between more than 5 and up to 10 years duration. Such a penalty is reserved for heavy crimes that, in the case of an adult offender, carry a penalty of more than 10 and up to 15 years of imprisonment, or life imprisonment, like rape with grave consequences for the victim, robbery with weapons, or murder. Convictions and sanctions of a lesser degree than youth imprisonment (including a

conditional sentence) are considered not being “truly criminal”. But of course prosecutors and judges would like to know whether a young defendant, they are expected to deal with either informally or formally, is (at least officially) a first time offender or a “repeater”. In order to secure such a legitimate interest the Prosecutor General holds a separate registry. It is called, literally translated from German, “educational registry”. In substance all so-called directions and correctional measures are stored there. The educational registry is by no means accessible for private persons or entities like employers or schools, and it is neither accessible for the police or for local and regional youth authorities. Scientists are also blocked off in general. However, Heinz et al. received special permission to evaluate both, the criminal history registry *and* the educational registry. They drew two full birth cohorts of male and female persons as recorded in the registries. And then they looked, after a huge endeavour to re-organize the alphanumeric data of the registries into a strictly numerical data file, capable to be analyzed with complex statistical instruments like SPSS (statistical package for the social sciences), into many details. Here it may suffice to show just one major basic result pertaining to the male part of the 1976 birth cohort. The question is how often those boys did come to the notice of prosecutors and/or juvenile judges or youth courts from the age of 14 (lower limit of criminal responsibility) up to the age of 18 (age of legal maturity in all matters of law except criminal law in Germany). Figure 2 shows aptly that more than 70 per cent were registered only once in the criminal history registry or in the educational registry. Following a concept as developed by the famous American criminologist, the late Marvin Wolfgang, and by his collaborators, in the realm of the most prominent Philadelphia birth cohort study I, one can particularly look at those young offenders coming into contact with criminal justice authorities five or more times. In the Philadelphia birth cohort study (published in 1972) the scholars counted contacts of the (some 10,000 males) youngsters with the police due to delinquent acts (like playing truant from school) or due to crimes (like theft, burglary, rape or homicide). Some 35 per cent of the young generation had been registered in the police files. They had been handled informally or formally arrested. Among them some 600 committed 5 and more delinquent or criminal acts (some 6 per cent of the birth cohort, respectively some 18 per cent of the delinquents). This rather small sub-group accounted for the major part of all offences recorded for the whole birth cohort during their period of life from (at least) 10 to 17 years of age. Wolfgang et al. called them “chronic offenders”. In Germany a study performed by Weschke et al. in Berlin at the Berlin police headquarters came up with rather similar figures. The Berlin male youngsters of a comparable birth cohort had come to the notice of the (then still West-) Berlin police to the amount of 32 per cent up to their 18th birthday. Also the percentage of the “chronics” was very similar. Figure 2 depicts the situation for a later birth cohort for (then still West-) Germany as a whole, and only for those dealt with by judicial authorities in the broader sense of the term. It is important to know in this respect that German police officers and authorities are not entitled in any case or circumstance to terminate a prosecution formally or to impose even informal sanctions. They are obligated to report each and every offender eventually to the local prosecutorial office or, exceptionally, directly to the juvenile judge. As one can deduct from Figure 2, only a little less than two per cent of all those young male defendants reported to the judicial authorities and dealt with accordingly, committed five and more offences. So the rate of “chronics” in a whole country seems to be considerably lower than the rate in big cities (like Berlin), a fact which is already to be expected from common sense knowledge of how juvenile delinquency and crime are being distributed geographically.

Figure 2:
Frequency of Becoming Registered in the Central Criminal History Registry
 German Male Offenders, Birth Cohort 1976, Age Period from 14 to 18 Years
 (Source: H. J. Kerner, based on the Konstanz Birth Cohort Study, W. Heinz et al.)



V. RELATIVELY SMALL AMOUNT OF VIOLENCE

Real violent crimes account usually for only an absolutely or relatively small portion of all crimes committed by young people. The actual figures depend, inter alia, on the type of state and society, the poverty level, the unequal distribution of income and wealth, and on the particular time period taken into consideration. In West-European states the share is something between three and six per cent of the total of recorded offences. Those violent crimes very often take place during confrontations among youth of the same age group. In other words, juveniles are as much victims of crime as they are offenders. Violent crimes committed by young persons against adult and particularly elderly victims are, according to quantitative empirical studies, comparatively rare but they cause quite often, by various and partially obvious reasons, relatively high concern among people in neighbourhoods, towns, the public at large and surely in the mass media. We have some indications by studies that, in addition, the “visibility” of such offences has increased in the past years due to increased reporting of criminal acts to the police and other competent authorities.

VI. DELINQUENCY AND CRIME AS OCCASIONAL EVENTS

Even if juvenile delinquency and youth crime are surpassing the level of petty everyday offending, criminological longitudinal studies show convincingly that for the great majority of young (as a rule male) persons, offending is something like a temporary life episode. In terms of developmental psychology offending accompanies the transition from childhood to adulthood. It is, considered this way, not much more than a typical developmental mode of behaviour everywhere, and so far statistically normal. It is limited in most cases to a certain and often rather clear cut period in a youngsters’ life. This fits decently with results of other modern sanctioning research studies showing that a substantial proportion of cases can be dealt with informally, avoiding especially criminal court decisions, without any increase in endangerment of the public.

A. The Belief in Harsher Sanctions in General

Many people among the general public, many politicians responsible for anti-crime policy, and even some scholarly experts hold the opinion, if not the deep seated belief, that stricter and/or stiffer legal sanctions for young offenders can efficiently and effectively act as a deterrent, i.e. contribute to a reduction of juvenile crime. However, there is less than scarce evidence for this in empirical research. Also the concurrent opinion that increased numbers and stricter administration of criminal sanctions would have an individual preventive effect on young persons and block especially their descent into a criminal career, has still to be confirmed by empirical studies up to now.

B. The Call for “Getting Tough” with Intensive Repeat Offenders

As far as the rather small proportion of young people are concerned who come to the attention of the criminal authorities as heavy and/ or repeat offenders, some of them are in real danger of entering into a longer lasting criminal career. This sub-group is traditionally considered to be the core target of sanctions with deprivation of liberty, if not strong confinement. In criminological terms, during the last decades e.g. the already mentioned Moffitt's theory of few “life time persistent offenders” as opposed to the many “adolescent limited” offenders became popular. In the U.S.A. Marvin Wolfgang's also already mentioned concept of the (young) “chronic offenders” and their so to speak lions' share of the whole amount of youth crime became very influential for the shaping of more strict penal policies. Imprisonment became a kind of standard option again, whereas it was opposed in earlier times, during the reign of treatment philosophy, by the majority of the theoreticians, youth authority institutions, and even by large parts of the police, judicial and correctional authorities. Behind the call for getting tough lies, apart from basic personal convictions about the nature of crime and the deservedness of punishment for criminals, the assumption (followed then by corresponding fear), that young repeat offenders tend to repeat their offensive behaviours more intensely and more extensively the more their offending is interconnected with, if not deeply immersed into, a typical set of adverse personal or social-psychological or environmental conditions. If one would consider such an assumption to be correct, one would accordingly expect that the deeper the involvement of a young person into a delinquent or criminal way of life is developed, the more he will belong to a group with slightly or heavily prevailing adverse conditions. And actually: This is what traditional criminological studies were able to demonstrate once and again in many countries. And this is also very compatible with the everyday experience of many practitioners dealing with delinquent and criminal kids. But: Can we really be sure about that phenomenon?

C. The Tuebingen Re-analysis of the “Philadelphia Birth Cohort Study I”, 1972

Together with Professor Elmar G. M. Weitekamp and a couple of my research collaborators at our Institute of Criminology at the University of Tuebingen we had severe doubts whether the mentioned connection truly existed. We did not believe, based on a lot of experiences out of, inter alia, the “Tuebingen Criminal Behaviour Development Study” (TCBDS), that the connection was a kind of “actual given” in the real world in the sense of an at least strong probabilistic or even somehow socially deterministic “causal link”. Such a causal link would imply that adverse conditions “create” more or less automatically or even inevitably, by the one or other still not very well understood process, enduring negativistic feelings among (particularly) young people and, in a parallel process, deviant attitudes which may then, in the event, pave the way to respective behavioural patterns resulting in a first delinquent and lastly, a so to speak, blossoming criminal career.

Our research team worked intensely on the two data sets provided by the U.S. National Archive of Criminal Justice Data. The first data set pertained to the recorded offences, the second data set pertained to the known offenders. When Marvin Wolfgang and his collaborators had been collecting and analyzing the data of their birth cohort members the computing capacities were still rather limited even in the United States. So they could not fully integrate data on offenders and on offences into one unique data set. As a consequence the publications do show, apart from a wealth of very interesting results regarding the recorded offences, only comparatively few results with regard to offender characteristics. Mainly the number of their offences, which methodologically speaking is rather the number of their appearances before or contacts with the police, and the ethnicity or race of the young offenders had been taken into detailed consideration.

The creation of a new and fully integrated data set did cost us a lot of time, energy, and some headaches, too. Eventually after one and a half years of work, we succeeded in a satisfactory manner with clearing nearly all of the uncertainties in fitting offenders with “their” and only their “own” particular offences. Out of the plethora of stimulating results which are mostly not published yet I'd like to show here only the one which refers to the above mentioned problem or question.

After looking at a host of bivariate correlations between singular variables, after inspecting many correlation matrices, and after running a series of multivariate calculations we got the impression that many results had a similar “tendency”. Irrespective of which single factor or set of factors was being taken into consideration, the outcome pointed towards the same direction. The more a young person was being situated on the “lower side” of an issue, the more he came out to having been in frequent contact with the police. Poor neighbourhood vs. decent neighbourhood, good school grades vs. bad school grades, to cite just

two examples, showed basically the same distribution. This in itself would of course not seem very remarkable. The remarkable thing was, for us, the striking similarity in the shape of the results. So we assumed that the single facts might, apart from the one or the other very specific if not idiosyncratic causal mechanism, form an “*additive scale*”.

Behind the concept of such an additive scale lies the theoretical assumption that irrespective of or apart from whatever single causal relationships there might be one has to expect a continuously rising “risk of failure” for the persons experiencing the very real psychological, socio-psychological, and also social-environmental “burden” put on their shoulders, so to speak. It is, seen from that perspective, not so important what kind or kinds of burdening factors are present in or around a youngster. It is also not that important to look for the patterns of co-occurring factors. It is, the opposite, just the sheer “number” of adverse factors which sets the process in motion. For the number means, so or so, a growing “weight” the young person is getting confronted with and is being asked to master in a socially decent manner.

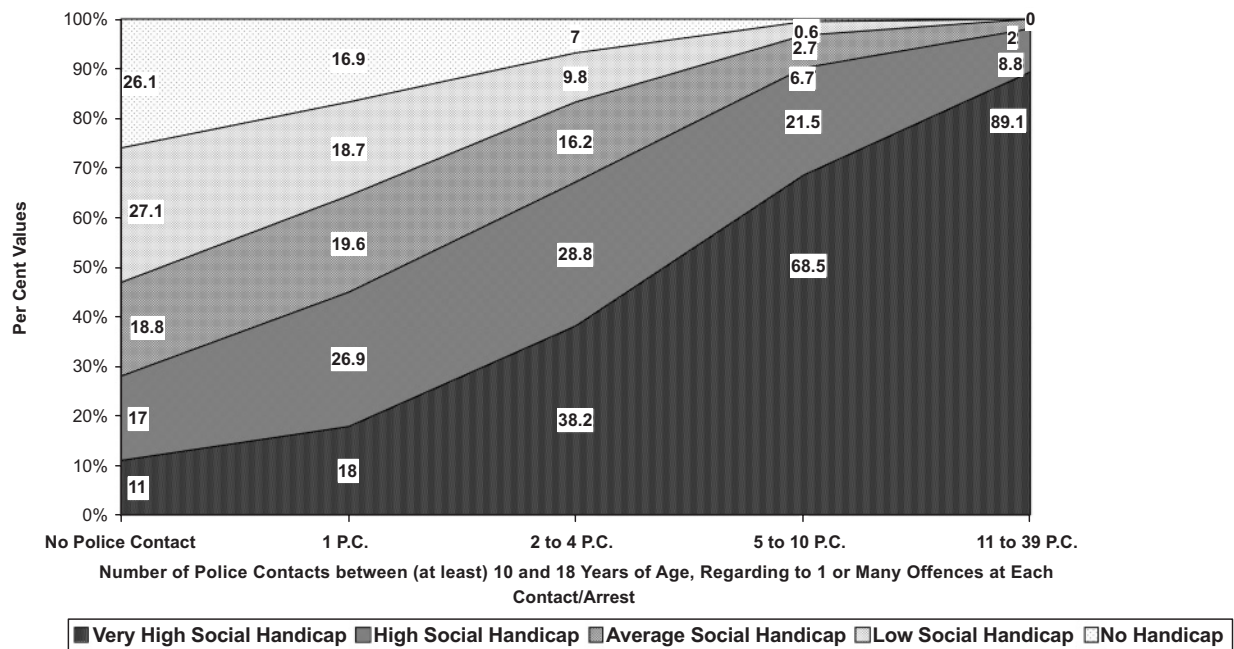
Based on this theoretical assumption we

- (a) decided to hold “race” not as a biological given or as a psychologically decisive personal characteristic but just, as any other fact of life which has some obvious and some less obvious implications for (not) climbing up the social ladder, as a potentially burdening factor (probably also in other countries than the U.S.), and
- (b) made iterative runs with all possible sets of 2, 3, 4, 5, 6, 7 and up to maximally 8 factors we could get out of the re-organized Philadelphia data set, and
- (c) divided the some 10,000 young people into five aptly suitable sub-groups (percentiles of 20) representing a growing intensity of socially and or individually adverse life conditions.
- (d) The resulting scale was given the name “Social Handicap Scale”.
- (e) The single factors entering into the original computer runs, and eventually included into the final version of this Social Handicap Scale were, in condensed description, the following:
 - Social characteristic of the neighbourhood
 - Ethnicity of the subject (dummy coded as “white- non white”)
 - Socio-economic status of the parent(s) respectively the family
 - Number of moves out into other neighbourhoods or towns
 - Number of moves of the subject to other schools
 - Transfer of the subject to special schools for either learning disabled or physically disabled students
 - Transfer of the subject to a special school for defiant or otherwise deviant students
 - Highest school grade the subject reached during his school career
 - Leaving school without a formal positive termination
 - Extent of achievement in school upon teachers’ evaluation
 - Intelligence quotient (three different time periods)
 - The amount and extent of playing truant at school

Figure 3 shows the correlation between the belonging of the young subjects of the Philadelphia Birth Cohort I to one of the five sub-groups, from the rather “well off” on the bright side of life, as opposed to the “desperate ones” on the rather grey side of life, and the number of committed offences respectively the number of contacts with the police by reason of becoming suspected of being delinquent or criminal.

The picture seems to confirm all the classical criminological, psychological, sociological and developmental assumptions so familiar to us all. The higher the number of police contacts of the youngsters, the higher the “share” the handicapped sub-groups take out of the events. The process obviously starts before the number of police contacts reaches the famous level of “chronic offending” (= 5 and more). However, it gets steeper from that level on. Among the most delinquent/criminal sub-group of offenders with 11 or more police contacts in the age period between 10 and 18 years of life, 97.9 per cent of the offenders belong to those who are either highly or definitely highly socially handicapped (= amassing up to 8 single burdening factors at once).

Figure 3: Philadelphia Birth Cohort Study - Male Offenders.
Subgroups with Different Extent of Social Handicap, Depending on the Number of Police Contacts (Source: H. J. Kerner et al., Re-Organized Data Sets of the Wolfgang et al. Stud 1972)



So: What about the mentioned idea that there are no real causal mechanisms in the real everyday world? The results seem to be fatal or, in a more drastic version, not much less than a slap in the face.

We were not fully discouraged, nevertheless. Since the way of this first complex approach was basically similar to the many other approaches in criminology and the other related disciplines: One looks at degrees of official recognizance of “problematic events or problem behaviours” at first; at second one tries to detect what kind of causal or background factors are related to these events/behaviours on the surface. By doing so one might, so we speculated, confound reaction mechanisms on the part of the “controllers” with behavioural or situational mechanisms on the part of the “controlled” even if the study design is not retrospective as it is usually the case in criminology, etc. but quasi-prospective as in the case of the Philadelphia Birth Cohort I study.

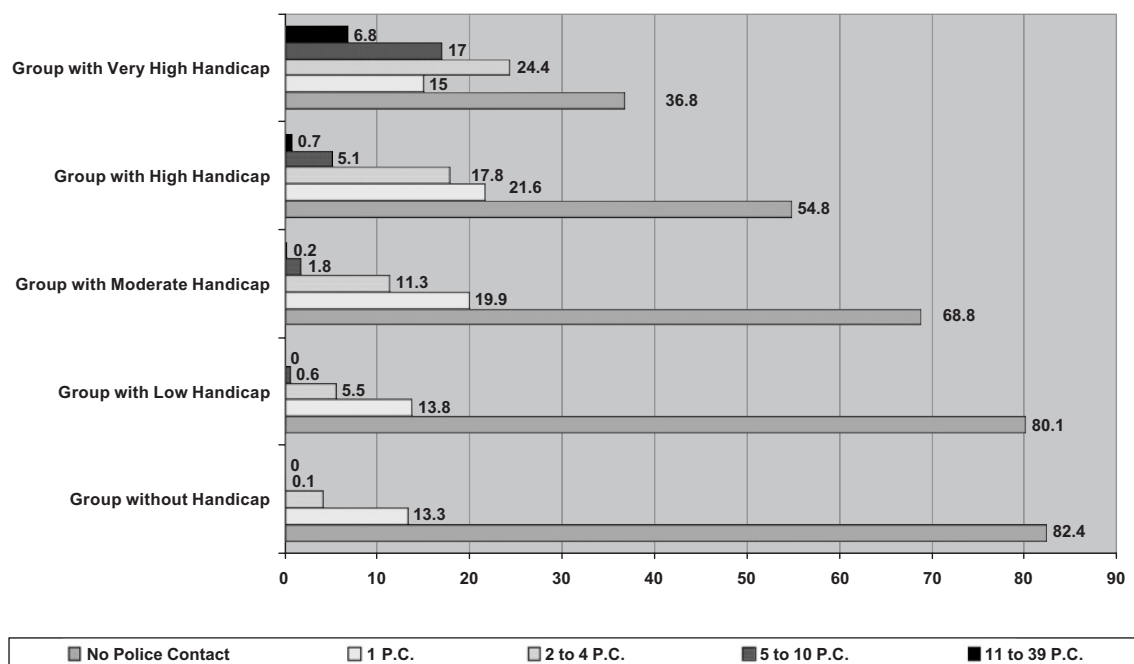
So we turned the analysis around so to speak. We started with all the 10,000 members of the birth cohort, as distributed among the five sub-groups with their different degrees of social handicap from birth on up to the leaving of school. And from there we calculated the amount of contacts each and every group assembled up to the age of 18. As Figure 4 shows very convincingly, a large part of the “evidence” coming out the way Figure 3 was being calculated is fading away.

When we look at the most privileged sub-group none of us will really be surprised to learn that roughly 82 per cent of its “members” never ever came into contact with the police during their childhood and adolescence. And none of us would expect that more than a very few would become “chronic offenders” of the Wolfgang type. Actually less than 0.1 per cent had a police record.

More thought provoking is a look at the most deprived sub-group with up to 8 burdening factors, the group with a very high social handicap being put on the top of Figure 4. Roughly 37 per cent of them never came into contact with Philadelphia police officers or authorities due to a delinquent or criminal act. Exactly 15 per cent had only one relevant contact, and another roughly 24 per cent assembled 2 to 4 contacts. That means that all in all 72.6 per cent remained below the level of the “chronics”. Taking this into the perspective of early intervention with the “youth at risk”, one could conclude that well meaning youth workers or community officers or other benevolent people would have invested perhaps much too much money, time and caring efforts into young people which either did not really need such kind of treatment or

may have needed it in substance but nevertheless managed somehow to stay outside the grip of status offence codes or the criminal code of Philadelphia. To put it more sharply, in the perspective of prediction of criminality and the very popular risk factor approach: Depending on where one would have set the limit, the prediction at time of birth or up to the age of 10 would have resulted in up to 43 per cent of so-called “false positives”. This term means persons who are predicted to show problematic behaviour in the near or the distant future (here delinquency and/or criminal offences) but who actually do not fulfil the prediction by remaining “clean” or, in clinical terminology, “symptom free”.

Figure 4:
Philadelphia Birth Cohort I_Male Offenders:
 Distribution of Police Contacts Among Subgroups, Age Period 10 and 18 Years, Depending on the Degree of Social Handicap
 (Source: H. J. Kerner et al., Re-Organized Data Sets Philadelphia I.)



D. The Need to Avoid Imprisonment

Imprisonment of young people bears, apart from the considerations as mentioned above, some heavy risks, even if it is administered in a more or less humane manner. Among the dangers that lurk in the background are: the loss of social ties, social stigmatization, and so-called criminal infection, which means e.g. learning criminal attitudes and skills from more experienced inmates. The dangers are particularly intense when it comes to “typical” multiple offenders. They show quite often, and suffer sometimes from, an intricate mix of problems, similar to those explained above with the Philadelphia birth cohort, both with regard to their individual dispositions as well as in relation to the social environment they grow up in. The mix may lead to deeply ingrained “criminogenic syndromes” among those who come out to be “true positives”. In the case of the Philadelphia birth cohort these are at least the few ones assembling 11 or more police contacts for one or (many) more offences related to each and every of these contacts. To confront those complex problem syndromes is an important task for crime prevention.

Imprisonment may help to incapacitate the young offenders if they can not be dealt with under conditions of liberty in community settings. And incapacitating may in so far contribute to public security and safety in the short and middle range. However, most young offenders spend only limited time in prison. When they are about to return into normal society they need skills not just to survive but to integrate in normal social conditions and ways of life.

Incapacitation tends to favour “negative conditioning”, due to a host of circumstances which shape the styles of living and behaving in even benevolent establishments of deprivation of liberty. Under such circumstances even the means of schooling young offenders or providing them with vocational education or

training may come out as somehow futile endeavours in that their potential (and actually “causal”) beneficial effect may be counteracted and even fully neutralized by harmful factors.

E. Concentrating on the Post-release Time Period, and Providing Through-Care

There is some hope, according to recent empirical studies with longitudinal design that one needs to use special kinds of preventive and helpful interventions in order to start at least the first real steps of improvement of young prisoners' life styles already during prison time. In order to secure such effects in the long run, methods of through-care are indispensable which guarantee the buffering of adverse experiences during the first weeks or months in liberty after release. This requires integrated efforts of different authorities, which in many countries are still today more talked about than actually implemented in a suitable manner. Preventive and helpful interventions are those which are oriented towards very individual and painstakingly checked problem constellations and behavioural patterns. They have to be based, in addition, on a person-to-person relationship characterized by acceptance and respect, which helps to create trust into others, a sense of getting treated fairly, and a positive self-image. All those and other circumstances open up a perspective for the future among the young people.

F. Traditional Means = Probation and Parole Orders

Probation and parole systems are well-established traditional alternatives to imprisonment in many countries. They are still not suitably established and equipped in many other countries of today, however. Where they are in good standing in general the parole and/or probation officers often suffer from heavy caseloads, which prevent them from dealing individually with their clients. Apart from those questions: Research in recent years has clearly shown, e.g. in Germany, that it is a sound policy to put also repeat offenders under parole supervision and helping schemes who were traditionally considered to pose higher risks for society and individual citizens in terms of recidivism. It seems even helpful to administer repeat probation and parole orders instead of imprisoning young people if the first or second or sometimes third supervision order officially ended in failure, be it due to defiant behaviour on the side of the youngster, be it due to the committal of new offences. In general statistical terms, the rate of successful termination of probation orders in Germany rose constantly in the last decades, and the basic trend was the same for first offenders, repeat offenders, and repeatedly supervised offenders alike.

There were some new methods of dealing with young offenders available which may have helped to reach this positive trend: e.g. integrated job finding systems, special housing opportunities for young offenders, open “probationary homes” with social and personal psychological services, community-service schemes combined with coaching of endurance and skills among the young offenders, and integrated alcohol and drug treatment schemes.

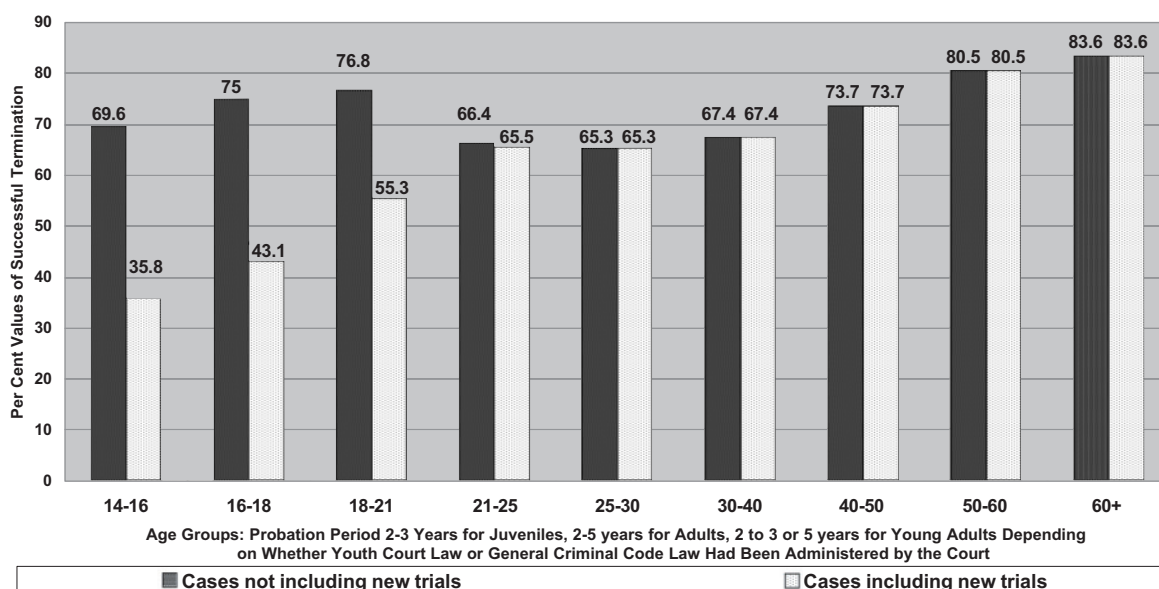
Figure 5 provides an overview of how high a percentage of cases/persons put under the supervision of probation officers in Germany got their probation supervision order terminated by a final positive judicial decision which is, according to German Youth Court Law or according to the adult German Criminal Code the quashing of the execution of the originally imposed conditional penalty of imprisonment. In general the success rates are rather high, particularly when considering the amount of repeat offenders or repeat probationers included in the numbers. On second sight one detects, when looking at the dark bars, that those below the age of 21 who almost always fall under the jurisdiction of youth courts show higher “success rates” than the nearest age groups of full adult probationers. And actually it is very common to point out this fact among practitioners of youth justice, including the adjacent helping professions like youth court aides and youth probation officers. Even some scholars seem fully convinced of the greater “power” of the youth court system as a whole as far as the avoidance of eventual imprisonment of offenders is concerned, in comparison with the adult criminal justice system. I would not like to deny fully such assumptions if not beliefs. There are actually some data available showing relatively beneficial influences of youth justice system interventions into the life of young persons, relative to the adult system ways and means of dealing with defendants.

However, when I followed the example of some sceptics who analyzed earlier yearbooks of the German probation and parole statistics in a slightly different way than the official authority were doing it, the nice picture lost a bit of its shine. The German Youth Court Law allows, and requires, the judge to take into account each and every former court decision relating to the defendant, provided that the decision ended in either a conviction without any sanction at all (so-called “isolated declaration of guilt”) or in an informal

sanction or in a formal penalty, and provided additionally that those decisions are not yet fully “exhausted” at the time of the new verdict. In technical terms that provision means in relevant cases that the judge/the bench substantially overrules the former court decisions as such, considers all now “remaining” offences, circumstantial facts, and personal conditions of the defendant in a holistic manner, and eventually sets up a new and unique respectively “integrated sentence”. This may come out, for example, as another probation supervision order with some collateral regulations (directions or correctional measures) different from those imposed on the probationer by former courts. By doing so, the behavioural “failure” of the defendant will turn out to become a kind of new “offer” to avoid imprisonment. This can surely be called a success from a certain perspective.

Without discussing this issue in more detail it may suffice to point out the following fact: If one considers the light dotted bars only, one can clearly detect the pattern which is so overwhelmingly present in each and any criminological or penological or treatment study anywhere in the world. The pattern is like follows: The younger the age group taken into consideration the higher the failure rate or, inversely as here in Figure 5, the lower the success rate, however defined or measured.

Figure 5:
Probation Supervision Orders in Germany
Success Rates Depending on the Age of the Probationers as Assigned to a Probation Officer
 (Source: H. J. Kerner, based on raw data in BewHiStat 1999 [2003], total of terminated cases)



G. Remaining Neutral or Even Positive Effects of Youth Imprisonment

In all states of the modern world some (young) offenders are committing such heavy crimes that they “deserve” to be punished with a penalty implying deprivation of liberty. Other (young) offenders were given less intrusive sanctions so often before their last act of offending now to be decided upon by a youth court or a criminal court that it seems “inevitable” by all standard legal and practical means to impose imprisonment now! German judges and courts are used to considering imprisonment as somehow the last resort to rely to. This cannot and need not be elaborated here in more depth. However, apart from this complex issue of sanctioning theory and practice some pieces of research, a couple of them performed rather recently, have brought up interesting results which deserve to be discussed under several different socio-legal, criminological, penological, and crime prevention perspectives in the future.

I would like to point here only to selected results of one of our Tuebingen research studies we did in the last years, together with Professor Werner Maschke from the state of Baden-Wuerttemberg Police College. That study aimed at the detailed exploration of the experiences of young people in Baden-Wuerttemberg with the criminal justice system in a broad sense of the term, i.e. including juvenile justice, law enforcement and youth court aide interventions. It was a commissioned study for the state government. It was and still is expected to bring out some fruitful ways and means to deal in a humane as effective and efficient manner

with young delinquent and criminal persons. The project contains different approaches and uses quantitative as well as qualitative methods. It includes young persons at different stages of contact with “the authorities”. Here I only would like to show selected results pertaining to a small sub-group of some 30 young prison inmates living at the time of the semi-structured personal interview, and the additional administration of a questionnaire, in the central youth prison of Baden-Wuerttemberg. It may be worthwhile to note that the structure of the results shown here is very similar among other sub-groups of youngsters also included in the study.

As Figure 6 shows only a few answers indicate that the young prisoners forcefully resent their imprisonment (“revenge” might indicate such an emotion or attitude). The major part of the answers goes towards a “quid pro quo” attitude (bearing the consequences of what one has done), towards the need to change ones’ life or to accept being used as an example for other youth at risk.

Figure 6:
Young Men in State of Baden-Wuerttemberg Central Juvenile Prison = Main “Reason” for Serving Time in the Institution

(Source: Kerner/Maschke-Project on Experiences of Young Persons with the Criminal Justice System)

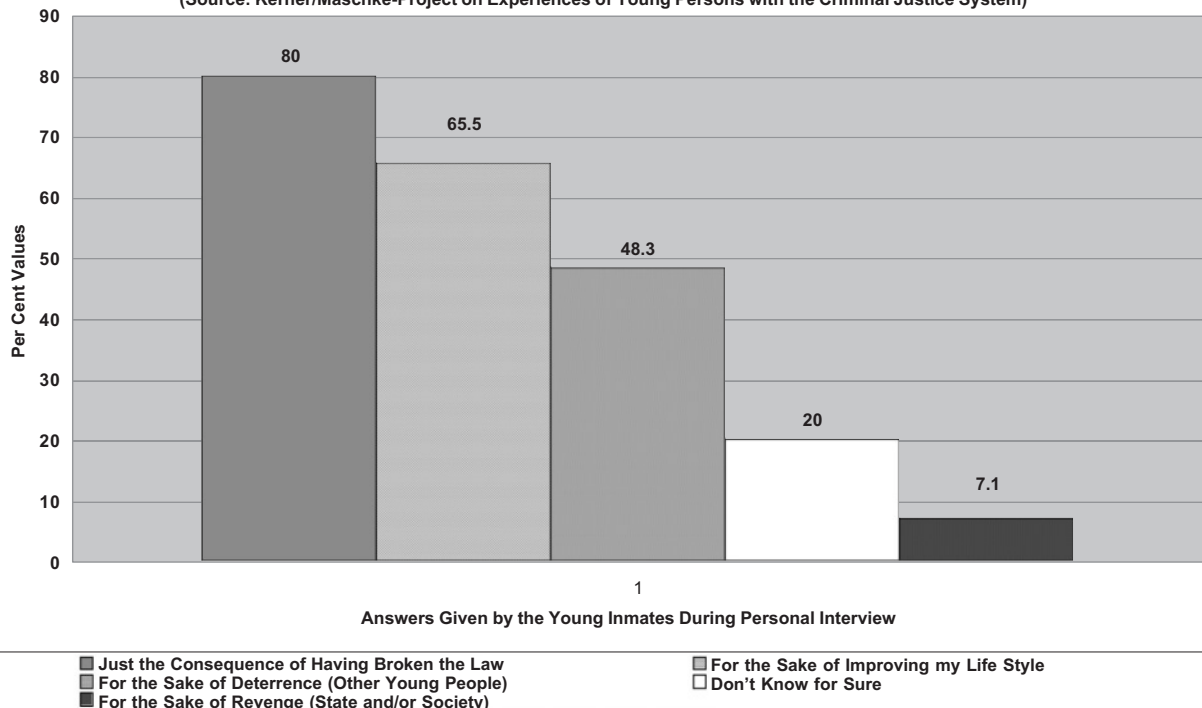
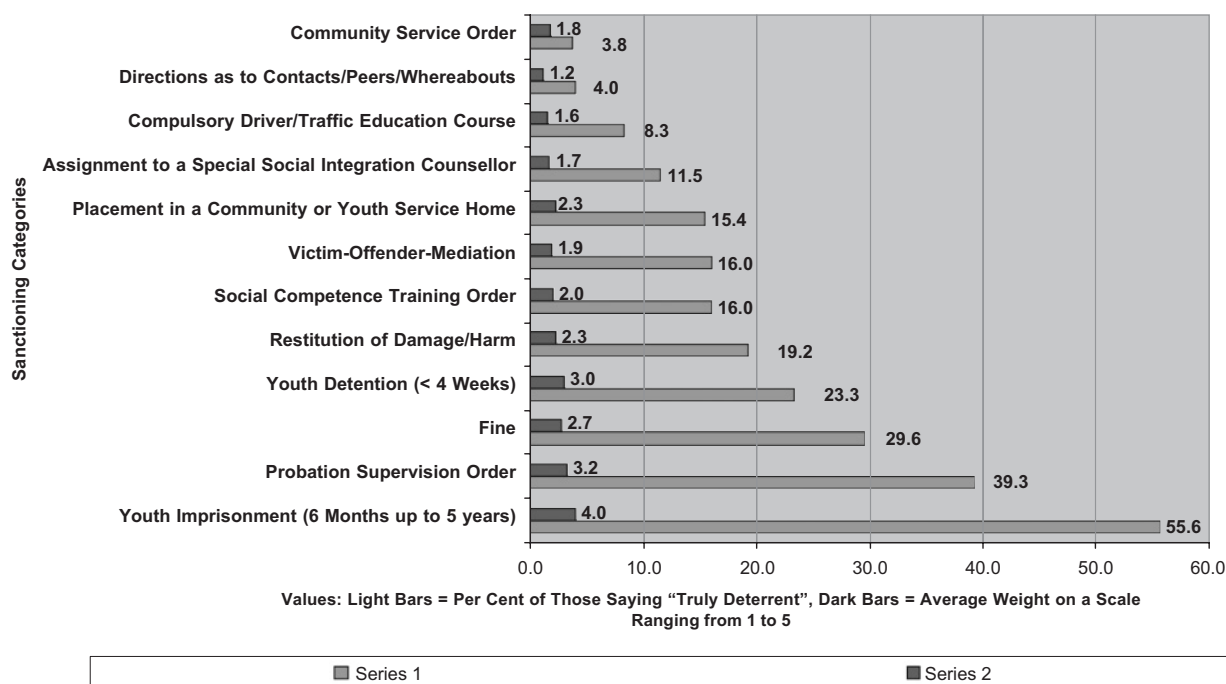


Figure 7 depicts the opinion of the young prisoners as to the “power” or “degree” of deterrence of different sanctions or penalties are concerned which the German Youth Court Law and German Criminal Code are providing today. On the one hand one can aptly detect that the penalty of youth imprisonment is considered the most deterrent of all interventions into the life of young offenders; some 44 per cent of the subjects, however, do not consider youth imprisonment as truly a deterrent but only a deterrent to a lesser degree. On the other hand the fact that a probation order comes in the second rank in deterring power, which may surprise many readers, is well in line with a few older studies performed in the United States of America. It coincides already with common sense assumption that sanctions like community service are practically not considered to be a deterrent at all.

Figure 7:
Young Men in State of Baden-Wuerttemberg Central Juvenile Prison
= Evaluation of the "Degree of Deterrence" among Different Sanctions)
 (Source: Kerner/Maschke-Project on Experiences of Young Persons with the Criminal Justice System)

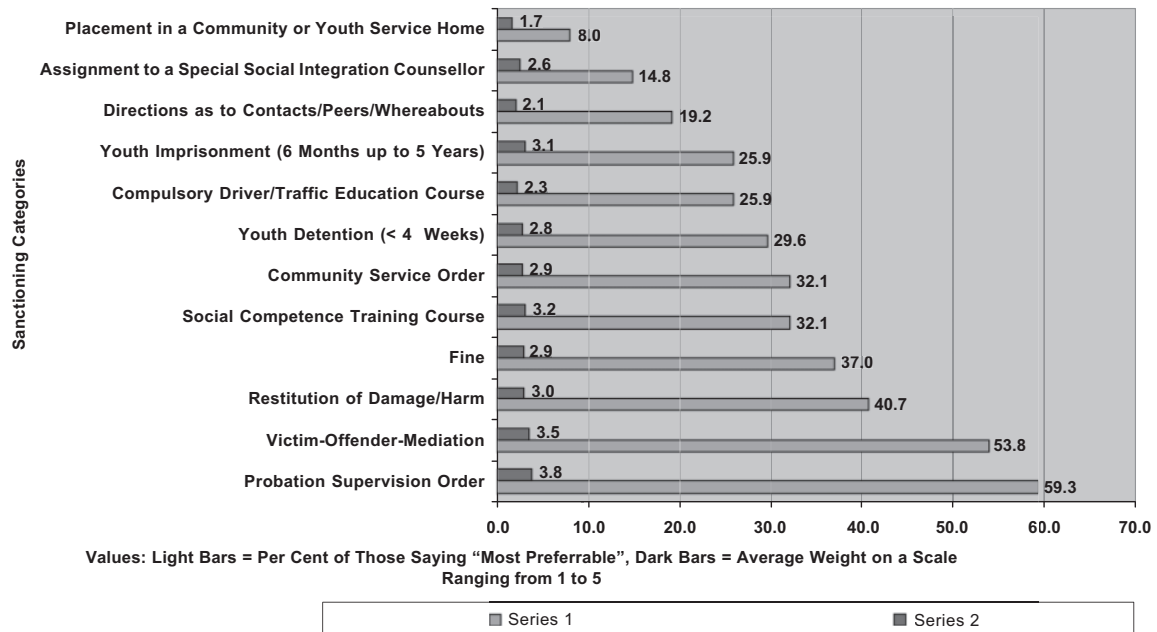


This picture should not lead us to discard the socially integrative sanctions at all. As we can clearly deduce from the results shown in Figure 08 the young prisoners are well aware of the general meaningfulness of such sanctions. And from the qualitative semi-structured interviews we carried out with them it came out that they consider them very meaningful and apt for themselves in order to pay back to society for the harm done to others, in order to come to some or full reconciliation with their victims, and in order to try to live a decent and future oriented life under conditions of controlled liberty.

Figure 8 shows us what high a rank posit, after the classical probation supervision order (so far a meaningful deterrent for the young offenders!) the measures/offers of victim-offender-mediation and the restitution of the damage done or the harm caused.

Figure 8:
Young Men in State of Baden-Wuerttemberg Central Juvenile Prison = Selecting the Most Meaningful Sanction for Young Offenders

(Source: Kerner/Maschke-Project on Experiences of Young Persons with the Criminal Justice System)



H. Long-term Effects of Sanctioning

In terms of penal theory or the measuring of sanctioning effects we should consider that seemingly futile treatment efforts in the short run, as we are confronted with over and over in many fields and in practically every state, may nevertheless bear powerful "seed strength" for improvement of offenders in the long run. One can call that in everyday language a "sleeper effect" of individualized treatment as opposed to the seeming "null effect" or only "minor effect" within a distance of follow-up of say 2 to 5 years. In more scholarly terms this can be understood as a type of "deferred re-socialization".

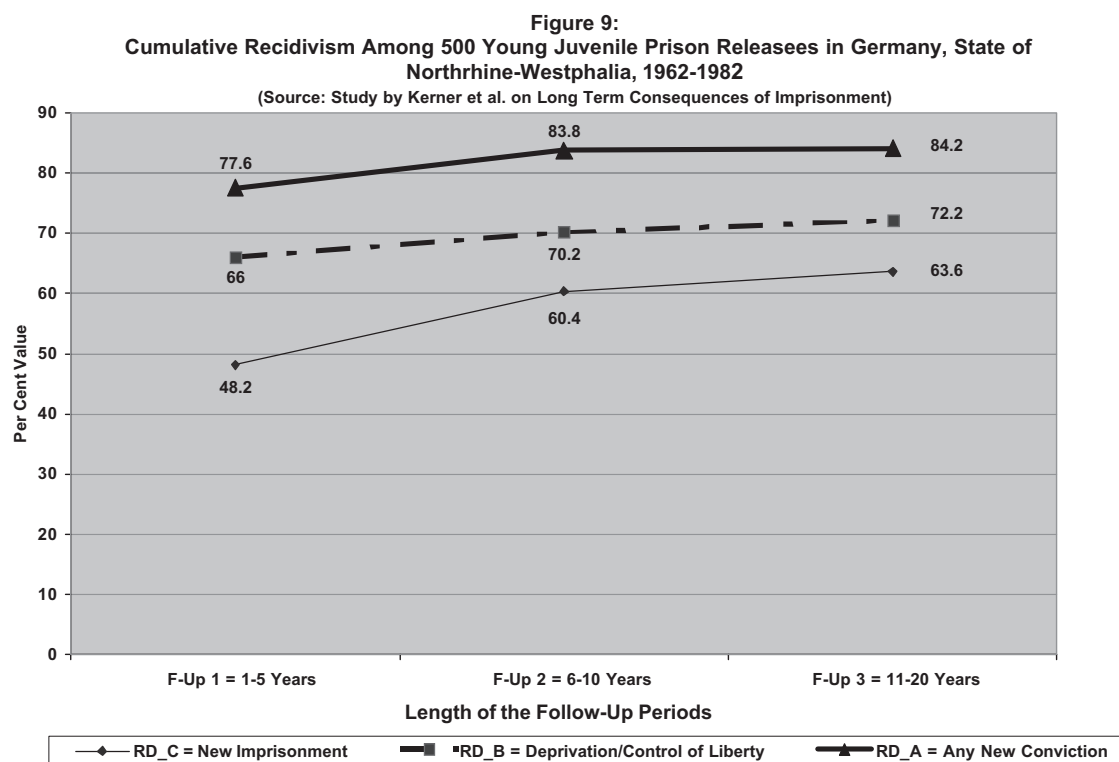
I. Aggregate Data vs. Individual Trajectories

The complex process is being deeply connected with phenomena we are all well aware of under everyday life conditions: It takes time and normally repeated effort to change attitudes and behavioural styles. One may take the "decision" to quit smoking as a telling comparative example also for otherwise perfectly decent and normal people. Based on our Tuebingen longitudinal and comparative studies on (ex-) prisoners on the one hand, (formerly) young men of the same age and regional belonging out of the normal population on the other hand, I developed the theoretical concept of "cognitive re-socialization" which enables us to understand long term improvements in criminal attitudes and behaviours, and to develop suitable practical schemes. This can not be dealt with in more depth here. Statistical data on the aggregate level, i.e. pertaining to large groups of offenders, show typical structures of recidivism which may lead to scepticism, if not pessimism. Rates and structures of recidivating are, laying rather on the surface of things and events, strongly bound to a limited set of "indicators" like age, sex, and earlier convictions, which may not be causal factors in themselves but rather epiphenomena of broader problems or syndromes "in the background" of peoples' personalities and living circumstances conducive to repeated crimes. However, the few research studies available internationally, including our own, which deal with "individual trajectories" of living and offending and receiving sanctions, indicate that the so-called criminal careers do not usually lead to an ever increasing "immersion" of the offenders into further deviance. On the contrary: at every step of the career, even after ten or fifteen convictions, there is a real option for desistance. And as we could show with a group of some 500 young releasees from a central youth prison in one of our German states during a follow-up period of 20 years, most of them actually finished their criminal career.

Figure 9 depicts the further criminal career of a group of some 500 young prisoners released from two large youth prisons in the German state of Northrhine-Westphalia. This is the biggest of our states with

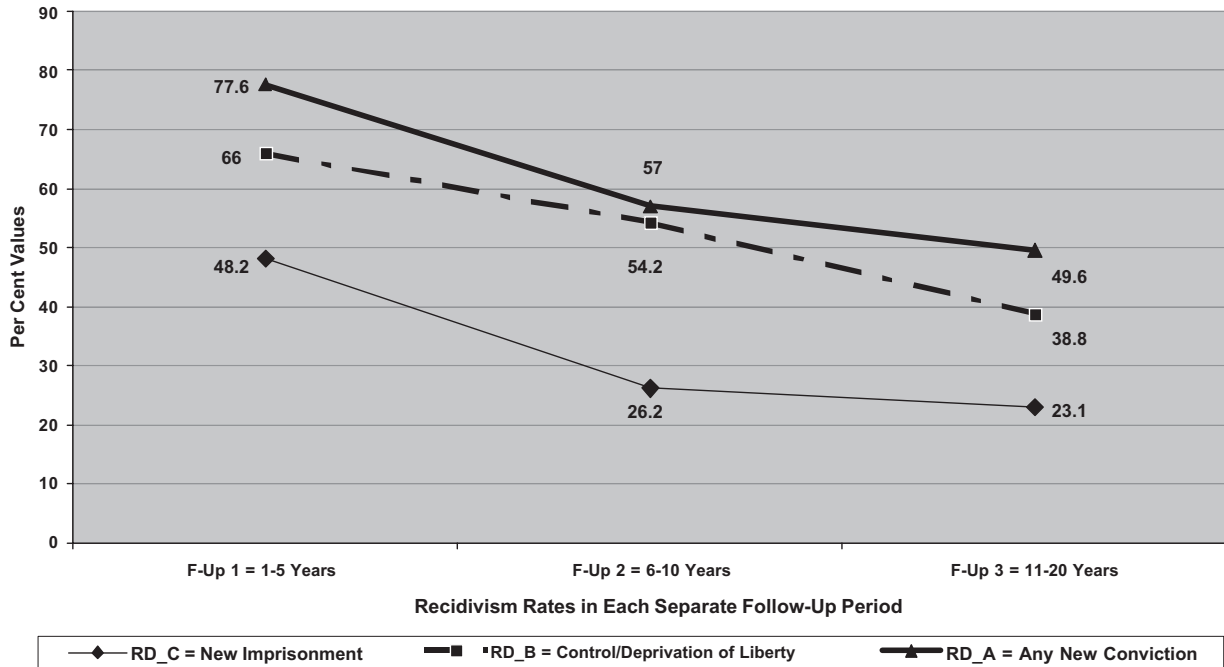
more than 17 million inhabitants. The young prisoners were released in the year 1962 from two large state youth prisons, one of which was a medium security closed prison, the other a minimum security semi-open prison. In pursuing the work commenced by Dieter Hoebbel, a then doctoral student, we re-analyzed the data on the first follow-up = 1 to 5 years development after conditional or final release from the youth prisons. Our team, I myself, Helmut Janssen and Dieter Hermann with some research assistants, then took on the next periods of time, and we followed-up the ex-inmates at first for a further five years, accumulating the time at risk up to 10 years, and later on for another more extended period of 10 years, accumulating then the whole time at risk up to 20 years. Out of a multitude of interesting and sometimes mind-provoking results I would like to show here only the ones that related to the recidivism rates.

Figure 9 depicts a dynamic process very common in many studies dealing with the fate of young (male) prisoners after having been released from a correctional institution. All three measures of recidivism show a rather constant rise in the “failure rate”. In the very long run roughly 84 per cent of our group of ex-inmates acquired new convictions. Roughly 72 per cent were given new sentences implying deprivation of liberty, be it conditional imprisonment sentences with an additional probation order, be it unconditional imprisonment terms. However, since a part of those managed to terminate their probation supervision term, and since a few others got their imprisonment terms commuted before execution of the imposed sentence (e.g. via pardon granted by the competent authorities), not all of the high-risk group returned to prison. Roughly 64 per cent eventually had to go to prison again, at least once.



The seemingly sad picture can be turned towards a more promising one when one changes the method of measurement and perspective. We did so by computing the three conceptually different recidivism indicators in a different way. Instead of calculating the accumulative risk of failing, which is the most convenient and also actually internationally used approach, we calculated the “failure rates” for each follow-up period separately. Figure 10 presents the results of that procedure. We see that the lines are now directed downwards along the 20 years of the criminal careers of the whole group of ex-inmates. During the second decade “only” some 50 per cent got still new convictions, but (as is not shown here) to a much lesser extent as in the previous follow-up periods. Accordingly, only roughly 39 per cent received a new sentence implying deprivation of liberty. Roughly 23 per cent had eventually to spend some new time in prison but as a rule (as it is not shown here) rather short-term periods.

Figure 10:
Degrressive Recidivism Among 500 Young Juvenile Prison Releasees in Germany, State of Northrhine-Westphalia, 1962-1982
(Source: Study by Kerner et al. on Long Term Consequences of Imprisonment)



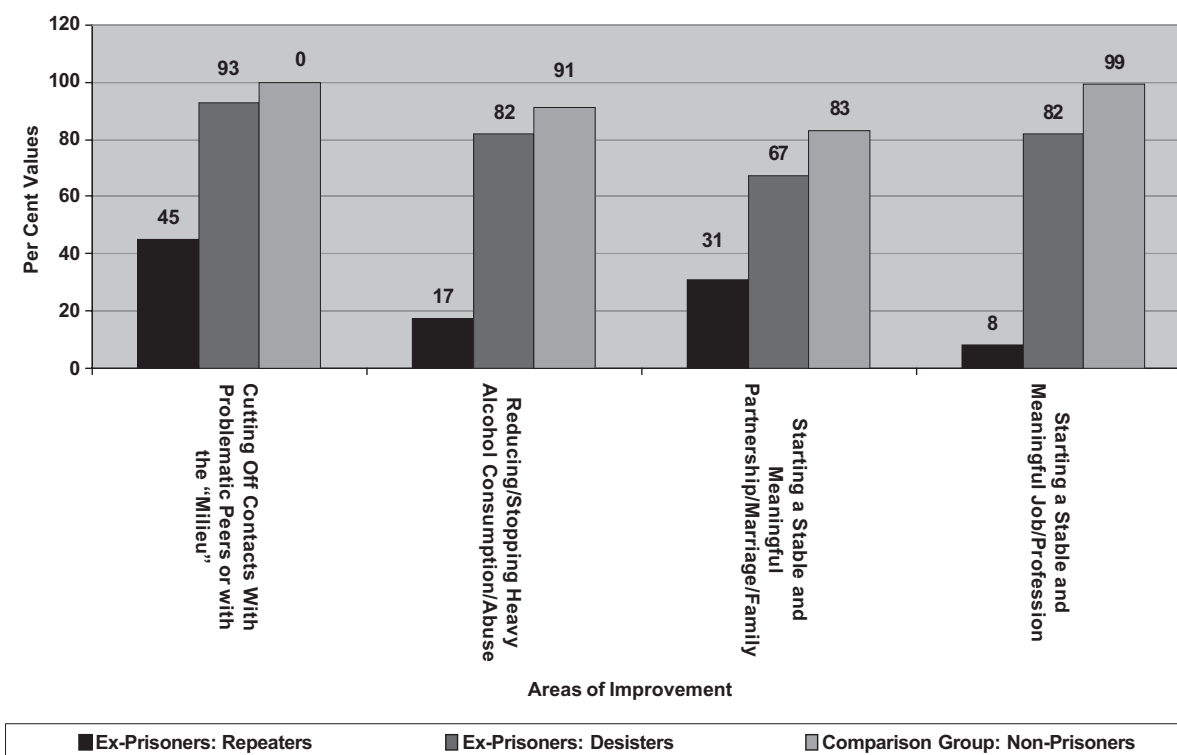
Put in other terms: The majority of these former young prison inmates could reach, trying alone or with useful support by others, in the long run a reintegration into normal society. The data set of our Northrhine-Westphalia study did not allow us, however, to unveil the possible material factors or substantial dynamic developments, which contribute to the eventual relative or absolute positive results. But we could approach this question more aptly with the follow-up data, and the qualitative results out of 400 individual case histories, related to the above mentioned Tuebingen Criminal Behaviour Development Study (TCBDS). We were able to follow many of the study subjects, originally 200 young adult prisoners in the regional prison of Rottenburg near Tuebingen (some 22 years on the average), and 200 young men out of the normal population of the same age living in the same counties, towns or villages as the convicts. These 200 control persons were not necessarily “non-criminals”. Since the founder of the TCBS, Prof. Hans Goeppinger, did not believe in a clear distinction between so to speak black and white sheep, he opted for taking a random sample of “normals” in order to allow the researchers to have a broader variance of individual developments, including convictions potentially leading to a criminal career. Actually some 23 per cent of the comparison group had received 1 to 3 convictions and sentences but no prison sentences except to subjects who “disappeared” after having received by mail the Institute of Criminology’s letter of invitation to join the longitudinal study.

Meanwhile we followed some 230 persons up to the age of 60 or more. The data set is rather complete and detailed up to the age of 40. The qualitative results as stored in the individual case files pertain to a host of very interesting issues for selected sub-groups of our subjects.

Here I would like to present only one central result of a particular kind of study done with the quantitative data set. Wolfgang Stelly, Juergen Thomas and I, assisted by research assistants, selected two samples. On the one hand 83 heavy young criminals out of the prisoners group (early starters and late starters combined, with actually more than five convictions and many additional behavioural problems). On the other hand 112 young men out of the comparison group who did not receive any youth court or criminal court convictions during their whole life time up to the age of 35. The idea was to study the positive and the negative “extremes” of all possible developments the subjects could become immersed into. Apart from many other results of our bivariate and multivariate calculations we inspected the pathways the subjects

followed, and the turning points they were experiencing, after having reached full maturity which has been determined by many international developmental psychologists to be around the age of 25. From other life history studies, and from looking at the age-crime-curve as depicted by crime statistics, we know that after the age of 35 only a very minor percentage of persons (men) are continuing dense criminal careers. So, in pursuing a kind of research strategy like Laub and Sampson in the United States with the Glueck sample, we looked for the “co-variables” of getting out of a criminal career. As Figure 11 aptly demonstrates our results are basically very similar to the American results. Getting away from problematic peers, managing alcohol problems, starting a meaningful job and entering into a (new) meaningful and emotionally stable partnership, marriage or eventually a family of its own, are among the most relevant factors for desistance. In terms of the statistical picture the subgroup of desisters “approached” its “counterparts” on the standard population quite good, whereas the persisters remained far behind or did not change at all, at least not until 35.

Figure 11:
Pathways out of Crime Among 2 Sub-Groups of Young Ex-Prisoners (Similarly Heavy Young Criminals up to 25 Years) in the Life Period between 25 and 35 Years of Age
 (Source: Kerner et al.: Tuebingen Criminal Behavior Development Study)



The modal way is not “stopping at once” but “fading out” gradually. This is well in line with the above-mentioned phenomenon of deferred re-socialization. With the data of our Northrhine-Westphalia study on 500 young released prisoners we can demonstrate the development in a rather impressive manner. Many people, not only in the general public, would probably be inclined to assume that there is a kind of “law” going the following way: The more extended a criminal career, the higher the percentage of recidivists proceeding to the next step which is a new offence. Taking this perspective seriously one would expect the curve of persisters in our study to show a clear upward trend. Actually the data provided us with another message as can be seen in the final Figure 12. The long-term trend is directed downwards. In other words: At every step of a criminal career there seems to be a chance to desist, i.e. to terminate the career. Some of the effect may of course have been “produced” just by the growing age of the subjects, including maturity effects and burning out symptoms. But this is surely not the whole truth. The details of the complex issue must be left open here.

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Figure 12:
Individual Criminal History of 500 Young Juvenile Prison Releasees in Germany, State of Northrhine-Westphalia, 1962-1982

(Source: Study by Kerner et al. on Long Term Consequences of Imprisonment)

