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***The Transatlantic Dialogue: US Juvenile Justice Reform at
First Hand***

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The Transatlantic Dialogue: US Juvenile Justice Reform at First Hand

I. Why Should Europe Take a Closer Look at Trends, Issues, and Programs that have Proven to Work and Current Research Regarding Effective Prevention Strategies in the US?

The idea for a US Juvenile Justice Reform Forum as part of the annual German Prevention Congress (DPT) started many years ago as a result of our international work with US colleagues, namely the National Council of Youth and Family Court Judges (NCJFCJ), representatives of the Pennsylvanian Juvenile Court Judges Commission (JCJC), the Philadelphia and Chicago Juvenile Courts as well as the former applied criminological intervention program of the Glen Mills Schools and the German-American Chamber of Commerce in Philadelphia to create new ways of vocational training for young people including the international transfer of academic and vocational degrees.

The “Transatlantic Dialogue” and the idea of a continuous exchange of good practices, evidence-based approaches and research between researchers and all actors in the family and juvenile justice systems in the US and Europe finally became a reality in 2014, when the first US Juvenile Justice Reform Forum was part of the international program of the annual German Prevention Congress (DPT) in Karlsruhe (Germany) and has since become a regular part of each subsequent annual prevention conference.

One of the transatlantic dialogue’s recurring conclusions of past forums since 2014 has become very clear: The problems children, families and courts are facing are quite similar in the US and EU - so why not learn from each other?

„In collective responsibility for youth we need a ground for a public debate, which stimulates the look-out for best practices and allows to enforce democratic accountability“

(German Constitutional Court Decision of May 31, 2006). This is the guiding principle for all German Resocialization Acts and for the 6th US Juvenile Justice Reform Forum.

Exemplary evidence-based research and practice projects illustrate the importance of cross-over networking between child welfare and juvenile justice systems, specifically for those young individuals with links to both systems (so-called cross-over-youth). Valid national data constitutes the foundation for target-oriented, systematic and successful cross-over-strategies.

The evidence-based Cross Over Youth Practice Model (CYPM), presented by our distinguished speaker Dr. Guido DeAngelis, developed at the Georgetown University McCourt School of Public Policy, and by now widely replicated in the reform model of the State of Pennsylvania and beyond, is one of the most progressive examples, to enable youth at risk through effective inter-system-cooperation to develop a self-reliant and socially acceptable personality within a democratic society.

The Watson model presented by Dr. Anthony Capizzi is a technology-supported basis for individual case management. It facilitates making decisions that are in the best interest of the young person, helps to detect and correct errors in the decision-making and, first and foremost, helps to avoid disproportionate disparities and contacts with the system.

Informed knowledge is much needed to help troubled children more effectively. They are the ones supposed to be at the center of every discussion, decision, and attempt to integrate them into society successfully and to help their parents to improve their parenting skills. The US has not found all the answers, and the EU has not found all the answers either.

It is often internationally criticised that the US still has not ratified the **Childs Rights Convention** yet. But this does not mean that all the profound initiatives of our US colleagues in all parts of the juvenile and family justice systems and related fields, such as education, welfare, academic and vocational instruction to better children's lives are not important for the international exchange of ideas.

Beginning with the inception of the **Federal Office for Juvenile Justice and Juvenile Crime Prevention (OJJDP)**, numerous supporters working in the field and in federal and state agencies have been in favour of a fundamental juvenile justice reform after restorative justice principles. Many initiatives and evidence-based programs have been developed and model states for change selected.

Robert L. Listenbee, past director of the OJJDP, is fully convinced that those reforms are meanwhile so deeply rooted that political climate changes cannot harm them anymore.

The immense research in the US regarding effective intervention and prevention programs and policies is often overlooked or considered “too American/too far away” by European observers, as is the fundamental change in US Juvenile Justice as a whole, including the coordinating work of the OJJDP, the federal Office of Juvenile Justice and Juvenile Delinquency Prevention. In turn, too little is often known in the US about Juvenile Justice and Child Welfare Policies in Europe.

US Juvenile Crime Policies and Prevention Strategies are often seen as zero-tolerance, harsh, and rigid. Many times, not only European policy makers and stakeholders point towards the US whenever justifying a shift from supposedly “too soft” policies towards a harsher approach to tackle unruly, oppositional juvenile behaviors.

Talking about juvenile justice and family justice in the US, there is still a strong belief among colleagues all over Europe that there is nothing positive to learn from the US, except not to follow negative examples or even to follow rigid strategies to tackle juvenile crime. Some argue that there is no need to even talk to our US colleagues as long as the US has not ratified the UN Convention on the Rights of the Child – or not to talk to them as long as politically conservative Presidents, such as Bush and/or Trump are in office. Others argue that the death penalty would have to be abandoned nationwide before any dialogue could take place and finally, many refer to bad examples and interventions which have proven to be highly ineffective and/or dangerous, such as boot camps and zero-tolerance strategies.

The European media mostly presents a dark picture of nothing but negative initiatives, policies and trends in the US. At the same

time, however, the leading research regarding evidence-based programs was conducted in the US by US researchers.

Historically, the Chicago School of Sociology undoubtedly had a leading research role regarding delinquent boys in gangs and group related behaviors. The distinguished US professor Howard Zehr, worldwide considered the „Father“ of Restorative Justice; the worldwide discussed and replicated **Blueprints for Violence Prevention** by Delbert Elliott/University of Colorado and the **Sherman Report**, just to name a few examples.. Initiatives to translate the blueprints into German have been rejected in favor of own initiatives or because they were considered “too American”, i.e. not suitable for European or German culture.

Aside from the fact that at least one of the blueprint program developers was in fact Scandinavian, the question what the American culture really is, was never answered. Common assumptions about supposedly leading cultural elements, such as sports, fast food, or critical educational standards are contradicted by the fact/s, that the US is a multicultural immigrant nation with 50 different federal states, many different ethnicities including Native Americans. Cultural differences exist due to different immigration streams, from state to state, from city to city, from east to west from north to south.

The European continent consists of many different nations, cultures and juvenile and family justice systems. The EU has made many efforts to harmonize the differences of the member states regarding juvenile and family justice. Many different beliefs and political trends are also prevalent in Europe regarding what does and does not work for children and youth involved in one or both systems.

II. Current Trends and Issues in Europe and worldwide New Legislations and International Standards

Legislation

- **European Union (EU)**

The EU recently passed legislation to set European standards towards harmonizing juvenile justice systems across Europe. This has constituted a challenge for member states to change or enhance their own systems accordingly.

- **Worldwide**
Implementation of international standards and recommendations The implementation of International child justice standards remains prevalent. Many countries have signed and ratified the Childs' Rights Convention, but are far away from developing or changing their system accordingly.
- **Child friendly Justice**
and the right of the child to be heard and understood in proceedings remains a topic of major importance.

Current Issues

- **Neuroscience Research** carried out regarding the brain development of young people has established that many programs or interventions based on rational choice theories, deterrence and/or punishment will not work for juveniles. This challenges traditional approaches and questions their effectiveness or potential for harm once more.
- **Application of Juvenile Law**
What speaks for the application of juvenile law for all juveniles regardless of the crime committed?
 - Optional application of juvenile law for young adults
 - No waivers to criminal court
 - Keep juveniles in juvenile court
- **Expansion of Restorative Justice Approaches**
For expanding diversion measures to keep juveniles out of court (first time/minor offenders/status offenders)
- **Registries**
Though there is a trend to get tough on crime and to consider registries as effective preventive approaches, there should be exceptions for juveniles: No registration of minor offenses, timely limited registration of severe offenses and expungement of criminal record after five years at the latest, if there have been no new offenses in the meantime.
- **No Sex Registry for Children and Juveniles** to avoid criminalization of at least normal juvenile sex behaviors due to their puberty.

- **Assessments**
Qualitative assessments centered around the juvenile, family and important pro-social bonds, focusing on risk and protective factors, strength-based assessments, based on well-grounded data to prevent labeling and scapegoating: only a system and its actors can fail, never a single person alone.
- **Evidence-Based Programs**
to reduce incarceration – to keep juveniles in the community whenever possible, reduction of residential/out of home placement in favor of individual wrap around and competency building approaches; qualified and differentiated treatment approaches.
- **Addressing Special Needs**
such as mental health and drug programs/drug courts appropriately.
- **Release from Prison/Alternative Programs**
Effective networking between all agencies involved to prevent reoffending to ensure sustainability of carried out intervention programs.
- **Training and Qualification** for all actors involved in juvenile justice, including judges and district attorneys to understand children's and families' special needs.
- **Graduated Sanctions/Informed Decisions** based on excellent and valid case management to prevent misinformation and misinterpretation.
- **Child-Friendly Communication in Both Family and Juvenile Court/s** to increase acceptance of courts and court decisions (to be heard).
- **Children Involved in Both Child Welfare and Juvenile Justice System/s**
Co-operation to give child welfare and juvenile justice children the same opportunities to live a crime free pro-social life like those children not involved in the system (i.e., no saving of resources on child welfare and juvenile justice kids). Especially for unaccompanied minors in juvenile justice court with migrant background there are often no programs available, resulting in a higher chance of imprisonment.

III. The Role of the US-National Council of Youth and Family Court Judges in various System Change Initiatives

Let us take a closer look at the National Council of Juvenile and Family Court Judges in the US, founded in 1937, and its initiatives. The Council has always played a very important role nationally in initiating and leading change initiatives in the US and enjoys widespread international recognition. The organization has a very important standing nationwide, specially due to the fact that the National Council has consultative status with the UN-Department of Economic and Social Affairs due to its many leading initiatives for change and that it is an active member of the World Organization of Youth and Family Court Judges and Magistrates (International Association of Youth and Family Court Judges and Magistrates/IAYFJM-AIMJF).

The NCJFCJ has numerous publications that address various areas of the issues outlined below.¹

Each state in the US has its own juvenile justice system – there is no such thing as a universal American Juvenile Justice System, but there are various important nationwide initiatives and changes.

The NCJFCJ and the Interstate Commission to Harmonize Different State Legislations

The NCJFCJ has a representative appointed to the Interstate Commission for Juveniles, which is the governing body of the Interstate Compact for Juveniles in the United States. It regulates the interstate movement of juveniles who are under court supervision or who have run away from home and left their state of residence, are on probation, parole, or other supervision, or have escaped to another state, and have been accused of an offense in another state. States ratifying the compact are subsequently bound by federal law to observe the terms of the agreement. Compact provisions take precedence over conflicting state laws. The Compact provides for states' supervision and return of juveniles who have run away from home and left their state of residence.

¹ <http://ncjfcj.org/resource-library/publications/juvenile-justice>

NCJFCJ Initiatives – Juvenile Justice Guidelines

The NCJFCJ recently updated its Juvenile Justice Guidelines² - setting forth the essential elements of effective practice for the court processes for juvenile delinquency cases. This update reflects changes in court practice, advances in neuroscience, the understanding of adolescent development and the juvenile specific rulings of the US Supreme Court. The Enhanced Juvenile Delinquency Guidelines document contains up-to-date information on general court processes, initiating juvenile justice court processes, best practices in detention or initial hearings, waiver and transfer hearings, trial/adjudication hearings, disposition hearings, the appeals process, post-disposition reviews, and probation and parole violations.

- **Resolutions for the Ratification of the Convention on the Rights of the Child**

The NCJFCJ has passed two resolutions urging U.S. ratification of the Convention on the Rights of the Child, in 1991 and in 2010.³

- **Enhanced Juvenile Justice Guidelines/Graduated Sanctions**

The principles and practices outlined in the Enhanced Juvenile Justice Guidelines call for respect of all parties and the right for every youth to have qualified legal representation. The Enhanced Juvenile Justice Guidelines call for juvenile courts to have “original and exclusive jurisdiction and authority to coordinate all matters affecting children and families in delinquency cases” and “that all youth who have not yet turned 18 should be under the original jurisdiction of the juvenile justice court.”⁴

- **Risk and Needs Assessments**

are addressed in the Enhanced Juvenile Justice Guidelines, and the NCJFCJ has a resolution supporting the issue paper from the American Probation & Parole Association on this issue.⁵

- **Resolution on the Issue of Juvenile Sex Offender Registries⁶**

² <http://ncjfcj.org/EJJG>

³ <http://ncjfcj.org/sites/default/files/crc%2520resolution.pdf>

⁴ <http://ncjfcj.org/EJJG>

⁵ <http://www.ncjfcj.org/risk-and-needs-assessment>

⁶ http://ncjfcj.org/sites/default/files/Final_NCJFCJ-Resolution-SexOffenderRegistration_3-2019_Compl.pdf

- **Juvenile Court Jurisdiction Over Delinquency Cases**

NCJFCJ has several resolutions related to juvenile court jurisdiction over delinquency cases.

- **Evidence-Based Services to Meet the Needs of Status Offenders and Their Families**

Are addressed in the Enhanced Juvenile Justice Guidelines, and in the NCJFCJ's Resolution regarding Efforts to Ensure Availability of Evidence-based Services to Meet the Needs of Status Offenders and Their Families.⁷

The NCJFCJ also issued a Statement on Evidence of Effectiveness, to ensure programs/practices discussed by the NCJFCJ are categorized according to the Continuum of Evidence of Effectiveness.⁸

- **Alternative Programs/Interventions**

are also addressed in the Enhanced Juvenile Justice Guidelines.⁹ Also including a link to the NCJFCJ's Brief on the topic of deinstitutionalization of status offenders.¹⁰

- **Collaboration of System Stakeholders**

is called for in the Enhanced Juvenile Justice Guidelines; and the NCJFCJ has a resolution and policy paper regarding a Unified Model Court Concept, calling for judicially led collaborations to effectively serve children and families by engaging all agencies and systems that have authority and responsibility in each area of need.¹¹ Also addressed in NCJFCJ's Resolution regarding Judicial Leadership in the Juvenile and Family Courts.¹²

⁷ http://ncjfcj.org/sites/default/files/evidence-based%2520services.7.10.final_.pdf

⁸ http://ncjfcj.org/sites/default/files/EvidenceEffectivenessPolicyStmnt_FnlAdopted_03012014.pdf

⁹ <http://ncjfcj.org/EJJG> and <http://ncjfcj.org/our-work/detention-alternatives>

¹⁰ <http://ncjfcj.org/our-work/deinstitutionalization-status-offenders>

¹¹ The Resolution and the concept paper can be found at http://ncjfcj.org/sites/default/files/cross-over%2520concept%2520paper%2520resolution_07-22_1.pdf

¹² <http://ncjfcj.org/sites/default/files/resolution%2520on%2520judicial%2520leadership.pdf>

- **Collaboration with Schools**

See NCJFCJ's work related to this area¹³, as well as its collaboration with schools.¹⁴

- **Training**

Addressed in Enhanced Juvenile Justice Guidelines, Guiding Principles: Pursuit of Excellence; and in the Project ONE key principles: "Judges should promote ongoing training for judges, allied-system professionals, court staff, and service providers to build internal capacity and enhance each individual's response to the wide-array of presenting issues that arise with system-involved children, youth, and families." The NCJFCJ promotes training in many of its resolutions on various topics, including the Resolution regarding Judicial Training on Adolescent Brain Development.¹⁵

IV. Conclusion

Comparing the legislation and initiatives in Europe, worldwide and in the US, it cannot be overlooked that judges and professionals working in the field have to deal with quite similar reasons for juvenile crime and their knowledge is based on the very same theoretical framework regarding reasons and conditions, protective and risk factors of juvenile crime to identify effective ways of prevention on all levels.

Comparing the recent developments, trends and initiatives throughout Europe with the current themes and initiatives in the US, it cannot be overlooked that there are many similarities – much more than there are differences about what is important to do and to change, to enhance juvenile justice and family justice.

The closer we take a look at what is happening in the US, the more we get into a dialogue with our colleagues, we will get a fuller picture of the black, the white and the many different shades of grey about juvenile and family justice reform initiatives.

The few facts alone presented in this overview display many and good reasons to look westward and to talk with our US collea-

¹³ <http://ncjfcj.org/our-work/project-one>

¹⁴ <http://ncjfcj.org/our-work/schools-and-justice>

¹⁵ http://ncjfcj.org/sites/default/files/FINALResolution_AdolBrainDevel_7-2016_0.pdf

gues to exchange ideas for good practices and evidence-based intervention programs instead of often reinventing the wheel.

For all those reasons we strongly feel that the Transatlantic Dialogue is absolutely necessary and helpful to bring together not only researchers, practitioners, administrators but everyone related to the field of Juvenile Crime Prevention, Social Prevention, Child Welfare, Juvenile Justice, Police, Education, Media and Art to exchange and share their ideas and visions to help our youth to have a successful upbringing and future.

We hope that further US Juvenile Justice Forums at future German Prevention Congresses will bring people closer together and initiate a vibrant dialogue and sharing of ideas for the future.

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