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The Determinants of Juvenile Justice Policy in France and Germany

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The Determinants of Juvenile Justice Policy in France and Germany

A dissertation submitted in partial fulfillment of the requirements for the degree of
Doctor of Philosophy at Virginia Commonwealth University

by

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ABSTRACT

THE DETERMINANTS OF JUVENILE JUSTICE POLICY IN FRANCE AND GERMANY

By Jacqueline A. Meyers, Ph.D.

A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy at Virginia Commonwealth University

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This dissertation assesses the factors that influence the development of juvenile justice policy in France and Germany within the context of systems theory. The project utilizes an open/closed systems framework as a way to conceptualize determinants of juvenile justice policy. France and Germany serve as two single case studies for demonstrating the open and closed dichotomy that characterize system theory with France being characterized as a closed system while Germany is characterized as an open system. This difference is demonstrated through a discussion of historical, cultural, political, social and economic variables, which shape policy development in each of these countries. This project contends that a significant contribution is made to the understanding of policy making using the open

and closed systems framework

Design and methodology:

- Single case studies : France and Germany
- Development of common variables to be investigated across two systems
- Focused interviews with key informants, non-random sample, one-on-one, in person, purposive, taped and transcribed
- Content analysis of focused interviews
- Content analysis of juvenile justice policies in France and Germany
- Data base searches of print media coverage
- A review of documents: laws, policies, penal codes, newspapers, legislative minutes
- Comparative analysis
- Data analysis: qualitative and quantitative techniques, mixed methodology
- Gathering of public opinion poll information

Summary of the findings:

1) The preponderance of information indicates that the relationship between policy change and media coverage is strongly related in both France and Germany.
2) Public concern over juvenile crime in France has the greatest influence on the implementation of policy rather than on policy development. The research indicates that in Germany, public opinion has a decided influence on the formation of public policy.
3) The evidence seems to indicate that the process of policy making in Germany is more complex due to the open nature of the system, while in France the policy making

process is simpler due to the closed nature of the system.

4) The evidence indicates that the French juvenile justice policy is as prevention-oriented as the German policy, in spite of France being characterized as a closed system.

The open and closed framework provides two mutually exclusive models that can be used to assess, in an efficient manner, factors that influence policy development. Through comparison and contrast, a variety of factors that may shape policy can be articulated using the open and closed dichotomy.

Chapter 1

I. PURPOSE OF THE STUDY

1. Nature of the problem

Western developed nations are experiencing an increase in the number of youth exhibiting difficulty in their homes, schools and communities. Troubled adolescents, criminality, school failure, and dysfunctional families are costly in time and money for every society. Since the 1970's, European countries have experienced growth in the rate of crimes committed by juveniles. The rate of juvenile crime far exceeds that for adult criminals (OIJC online) This has resulted in feelings of insecurity among the residents, especially in urban areas

Government policies towards delinquent populations vary from country to country. This variation might be attributed to a variety of potential causal factors that may be social, cultural, economic and/or political. For example, economics have a significant impact on the implementation of social policies. One nation may place a high priority on public expenditure for youth programs, while other nations may not (Higgins, 1981; 160) In addition, there are implicit and underlying cultural assumptions about how the roles of the individual, family and community should support one another that may vary between nations. Policy variations between States can be accounted for by analyzing a variety of

factors, and determining which ones are most significant These factors have a direct impact on the formation of public policy. As significant variables are identified, decisions regarding social policies become less random, and more theory based. In this study, France and Germany will serve as two single case studies for illustrating the open and closed dichotomy that characterizes systems theory.

The policies being examined in this study are the juvenile justice policies of France and Germany. This study will show how France and Germany differ on the open/closed dimension, with France being characterized as a closed system while Germany is characterized as an open system. The impact of this dichotomy on policy formation then will be elaborated upon. The contribution this study makes to research ultimately will culminate in theoretical enrichment and/or will have implications for theory. Little has been written to assess, or even speculate about the factors that might impact the development of juvenile justice policy in France and Germany. This study proposes to respond to this void in the literature by examining one determinant of policy not mentioned in the literature: that of a "systems" approach. This study will utilize an open/closed systems framework as a way to conceptualize determinants of juvenile justice policy.

Juvenile justice policies are written to address the behaviors of

delinquent youth. Delinquent youth often display "at-risk" characteristics prior to engaging in criminal behaviors. Adolescent youth are commonly referred to as being "at-risk" when they are in danger of having social, emotional, and educational problems. The broader usage of the term "at-risk" includes not only the individual who is at-risk or takes miscalculated risk, but also incorporates the environment that generates, sustains and supports high-risk behavior. These factors also must be considered within a broader historical, social, and cultural context. Youth at-risk may be characterized as a category of persons whose personal characteristics, conditions of life, situational circumstances, and interactions with each other make it likely that their development and/or education will be less than optimal. This definition emphasizes person-environment and person-context interaction (Kronick, 1997, p. 5).

Frank (1996) defines at-risk youths as adolescents having experienced behavioral problems caused by social and emotional difficulties. These youths frequently come from dysfunctional families and can be characterized as "having low academic skills, vague or totally missing career goals, a poor or complete lack of work history, abuse of drugs and/or alcohol, and have been involved with the juvenile justice system (Frank, 1996, p xii)". References to the term "at-risk" find their origins in the research of Frymier and Gansneder (1989) who together identified 45 possible factors which have the potential to lead to adolescent high-risk behaviors. These adjustment issues go beyond

normal age-appropriate acting out behaviors, which might typically be controlled by parental limit setting within the home environment. When youth at-risk display acting out behaviors that bring them into the juvenile justice system, they are commonly termed juvenile delinquents. Juvenile delinquent is a term that refers to youths who have been involved with the juvenile justice system, and/or display behaviors that are generally considered, given societal norms, to be criminal and possibly violent.

The number of risk (marginalized) factors that lead to an increase in juvenile crime is rising. These include indifference of the people, over-urbanization, higher unemployment rates, lack of money to develop or implement social strategies, and a weak economy. Money particularly, separates what ideally might be desirable from what realistically can be accomplished

France and Germany each will be subjects of a single case study for comparing factors that impact the development of juvenile justice policy in those two States. In Germany, a legal distinction is made between "youth at risk", who are handled through civil proceedings, and "juvenile delinquents", who fall within the jurisdiction of the criminal justice system (Shoemaker, 1996, p. 126). In France, a distinction is made between juvenile delinquents and youth in need of court ordered services. Frequently, literature on the subject of youth "at-risk" in France and Germany will refer to youth who have problems

reflective of maladies inherent in the larger social environment.

Governments have a multitude of ways of addressing similar problems. Leichter (1979, p. 8) explains, "...the purpose of the study of public policy is to explain or account for why states have taken the actions they have... The comparative study of public policy has the additional obligation of explaining similarities and differences in policies among political systems." Baker (1994) suggested that one of the best ways to understand this phenomenon would be to examine how different governments approach similar problems, not necessarily because of the expectation that one government would copy from another, but in an attempt to reveal implicit and underlying cultural assumptions.

A systems theory approach, as detailed and defined by open and closed systems, will serve as the organizing framework for this study. The argument will be made that France is a "closed" system, while Germany is an "open" system. This will be demonstrated through a discussion of historical, cultural, political, social and economic factors, which shape policy development in each of these countries. Content analysis will be applied to juvenile justice policies directed towards delinquent youth in France and Germany. The purpose of this analysis will be to identify factors having some influence in policy formation by country.

A comparative methodological approach then will be employed to

show how the policies differ or approximate each other, and an explanation will be given as to why these variations occur.

The research questions that guide this study are as follows

1. What are the most important determinants of the juvenile justice policies for delinquent youth in France and Germany?
2 How are the two juvenile justice policies similar and/or different?
3. How can the similarity or differences between the policies be explained?

The premise which guides this dissertation is that the determinants of juvenile justice policy will be different for France and Germany, given that the two countries differ on the open/closed system dimension and this can be demonstrated. The goals imbued in the juvenile justice policies vary according to the historical, cultural, political, and social variables by which they are influenced

2. Magnitude of the Problem

Juvenile justice policies provide the goals and objectives for implementation by practitioners in the field, such as those in the juvenile court system, social workers, and educators It is the intention of those working in the system for this to occur in an effective and timely manner. Resources are made available to, and in some cases imposed upon, families that might not be available to them otherwise (for example, placement in residential programs

and subsequent funding). Despite community interventions, the problem of juvenile delinquency continues to be of concern in both France and Germany.

There is some inaccuracy in the reporting of crime statistics for juvenile offenders in both Germany and France. Glatzer et al. (1992, p. 487) commenting on social trends in West Germany state that, "data are subject to doubt due to a large 'unreported' percentage." Forse (1993, p. 333) reporting on recent conditions in France, revealed that, "...an apparent increase in criminality may be due to a real increase in delinquent acts, but it may also be due to an increased number of declarations of delinquency or to improved police efficiency in finding criminals." For this reason, crime data tend to be suspect. Studies on "undetected" juvenile delinquency have shown that punishable acts are committed by a large majority of adolescents. However, these violations of the law in Germany, for example, are considered "normal" at this age and don't necessarily lead to contact with the juvenile justice system (Glatzer et. al., 1992; 487).

Since the end of the 1970's, one aim of the juvenile justice administration in the Federal Republic of Germany has been to avoid stigmatization of youths that enter the system. For example, the juvenile justice administration organizes opportunities for serving out work injunctions in cooperation with juvenile courts, and efforts are made to offer a varied spectrum of jobs with which adolescents can identify. Other projects operate

on the principle of " victim/offender settlement", such as mediation/compensation. The victim/offender settlement not only has to do with actualization of official criminal punishment, but also attempts a form of compensation (within the framework of the trial itself) suitable to both wrongdoer and victim (Helwig, 1986 in Glatzer et. al. 1992, p 490)

3. Social Policies

Policy is the instrument governments use to enforce their intentions. Describing the intentions behind social or farnily policy, Wilensky, Webbert, & Hahn (1985, p. 56) wrote, "implicitly or explicitly, these policies aim to enhance family stability and well-being by direct government action that both facilitates the achievement of the family's own goals and serves public purposes". Madison (1980, p. 57) described social policy as, "the entire system of principles and measures, which whole societies - not simply their governments - use to allocate and distribute economic resources, statuses and rights among individuals and groups, and thus to order social relationships". Social policy balances an assessment of reality against the values of a society while considering the structure, functions and purpose of the policies themselves.

These descriptions of social policy present a comprehensive view of the broader spectrum of this policy area. In this study, determinants of juvenile

justice policy (a subset of social policy) for France and Germany, will be identified. France and Germany are different with regards to the factors that determine juvenile justice policy formation, due to the fact that in France public policy is made within a closed system, while in Germany it is made within an open system. This will be further explained in chapter two.

4. Theories of Delinquency

The juvenile justice system and societal response determine approaches to juvenile delinquency. Two dominant philosophies prevail, those of punishment and treatment. The punishment philosophy is modeled after the adult system's confrontational approach to crime. Punishment is characterized by an increasing "legalization" of the juvenile court. Legalization occurs when legislative decisions increase the court's ability to impose more punitive sanctions on juveniles: such decisions also may grant greater rights and protections to juvenile defendants. The promotion of juvenile rights increases as the court's use of more punitive sanctions increases. Legalization's prevalence is indicative of the society's adoption of a punitive stance towards juvenile delinquency. In theory, the use of a punitive philosophy will decline when the public becomes frustrated with the high economic costs associated with punitive policies and/or there is a decrease in juvenile delinquency.

The treatment (rehabilitative) philosophy is used as an alternative to court actions and incarceration. These alternatives also are referred to as "diversion" measures and usually involve the use of community-based programs as an educational approach to juvenile delinquency (also known as restorative justice). Diversion is based on the idea that the label of delinquency is potentially harmful to the youth's self-esteem in terms of the stigma it imposes and may lead to more delinquent behaviors. This philosophy is further supported by the notion that juveniles have the capacity to mature out of unacceptable behaviors. Other benefits accredited to diversion measures include their ability to reduce costs and decrease court intakes. The implementation of treatment modalities inspired public controversy and debate that eventually led to the emergence of a separate system of justice for juveniles. In Germany, the first legislation establishing a separate system of justice for juveniles occurred in 1908. In France, initiatives towards establishing a separate system of justice for juveniles took place in 1912. Establishing a juvenile justice system, separate from the adult system, was thought to be a more effective and efficient way to approach juvenile delinquency.

The juvenile justice system can not be understood without first understanding how the perceptions of childhood have changed over time. Cesare Beccaria (1963) supported the classical position of standard

punishment for all. The development of the social sciences as a "science", and the adoption of an interdisciplinary approach to understanding social problems have influenced trends in juvenile justice in the 20th century. The French system has been influenced further by a moralistic approach to the problem of delinquency (noting that France is a predominantly Catholic country). The moralistic approach emphasizes the reformation of individuals through punishment and religious training.

There is currently no resolution to the dilemma of how to best deal with children who commit crimes. Historically, there has been movement on the continuum between treatment and punishment. This movement is influenced by an objective approach to juvenile crime that may involve evaluating formal, statistical sources of information such as the severity of crimes committed and the need for public protection. Legislators, police, and the public have the greatest impact on defining these determinants. However, the reporting of this data may not be consistent. In addition, there is also a subjective realm that influences a society's approach to juvenile delinquency, which includes informal sources of information (e.g. public opinion, public reaction).

Today, the juvenile justice systems in France and Germany are dominated by the theory that adolescents, young adults, and adults differ in their psychological and social characteristics. It is acknowledged that youth

go through stages of immaturity, which vary in length. These developmental stages are characterized by the quest to establish personal independence and the individual's desire to find a place in society.

In Germany, the philosophy behind juvenile justice is "to educate rather than punish" (§ 10 JGG, Matzke et. al, 1993). However, legal scholars differ concerning the exact meaning of the term "education", whether the goal should be a crime-free life or the wider purpose of resocialization of the offender (Streng, 1994, p. 60). "Research data about deterrence of potential young offenders in Germany shows that what Cesare Beccaria (1963) called the 'promptness of punishment' may have some slight effects on the future behavior of juveniles, but the same can not be said for the severity of sanctions" (Deichsel in Baker, 1994, p. 186).

Over time, German proposals for reform have moved along a continuum that ranges from vacation programs, victim/offender mediation, work programs, and law and order models, to discussions of "zero tolerance". More recent proposals for reforms have included those that advocate for more rapid processing through the system as well as more severe sanctions.

More recently, German proposals for expansion of community service and training programs have tended to channel young offenders into programs that strive to develop a positive work ethic.

In early nineteenth century France, the prevalent theory of punishment supported confinement, which meant correctional facilities and penal colonies. By the end of the nineteenth century, popular theory in France shifted due to the incorporation of new understandings of childhood and child development. French proposals for reforms of the juvenile justice system have advocated channeling delinquent youths into programs that are more cultural and social in nature. These programs expose young people to arts and sports activities as a means of promoting a sense of pride and connectedness to their country and community. This addresses the goal of reintegration with society and thus, rehabilitation.

5. History of childhood

a. France

Medieval families experienced high infant mortality rates. Children were treated as young adults as early as age seven and expected to assume family responsibilities such as farming and apprenticeships.

Two factors led to children being treated differently than adults in the 1500's; the State wanted its control over the population to start at an early age, and the Church wanted to maintain its position of authority with the people after a time of religious upheaval. In 1556, the chief law court of Paris made a landmark decision to extend the "age of minority" (i.e., the

state of being a legal minor) from twenty to thirty for men and from seventeen to twenty-five for women (Hawes and Hiner, 1991, p. 280). In both the 1500's and 1600's, females were socialized to become housewives and mothers. At least among the social elite, the focus for boys was for them to complete their education.

During the 1700's, most rural and urban children worked to contribute to the family economy. However, with the French Revolution came the mandating of compulsory school attendance until age thirteen. This altered the "rites of passage" from childhood to adolescence, by placing emphasis on education over work obligations to the family. The Revolution of 1789 abolished the *lettres de cachet*, which had enabled fathers to imprison adult children. The age of legal majority was reduced to twenty-one for both men and women.

In the 1800's, the birthrate declined due to the recognition of the substantial costs of educating and launching children, the wish to avoid dividing family property too often, and the desire to lavish more attention on individual children (Hawes and Hiner, 1991, p. 279). The State, social elites and employers shared a common interest in using the school system to instill discipline and respect for authority. The following paragraph vividly describes the juvenile justice system in these times:

> The July Monarchy (Law of April 28, 1832) which provided important legislative landmarks for education and for the regulation of child labor,

also identified the problem of juvenile delinquency. As Patricia O'Brian observed, after each French Revolution – 1789, 1830, 1848, 1871 – guardians of public order took new interests in prisons and penal reform, and after 1830 concern about younger offenders mounted. Public officials and humanitarian reformers joined to insist that when minors under age sixteen were sentenced to a period of confinement, they ought to be physically separated from adults, just as female offenders should be separated from males. With the creation of juvenile sections of prisons, work farms (colonies agricoles) and other correctional houses, another phase of what Michelle Perrot terms the 19th century "segregation of childhood" took place. By 1853 half of all institutionalized minors were in agricultural colonies, then usually under private direction, for rural labor was believed to be especially effective for rehabilitation. The century's peak in the number of minors brought to trial was reached in 1854, when 11, 026 such cases were heard. In Paris, at mid-century about 2 to 3 percent of all boys had some difficulty with the law each year. The number of minors in jail rose from 6, 600 in 1852 to 9, 000 in 1875 before starting to drop significantly during the 1880's. Four out of five young prisoners were male, usually jailed for theft (Hawes & Hiner, 1991, p. 288).

Under Napoleon I, fathers had the right to have children confined to "correction" for limited terms which made the French more likely to use paternal correction than almost any other European power during the 1800's. Although cases of this type only accounted for 2 percent of all juvenile prisoners in 1881, about 75 percent of those were females, confined by parents because of precocious sexual activity (Hawes and Hiner, 1991, p. 288). The system for correcting juvenile offenders underwent important legal and structural modifications during the Third Republic. After 1875, the education of incarcerated youth became more systematic, and the state assumed a greater role in administering institutions for rehabilitation, taking authority away from the Church. The

opinion of French professionals at this time on the causes of juvenile delinquency shifted from explanations stressing evil and poverty to those emphasizing psychological factors, including differences between adolescent and adult personalities.

Originally, Roman law submitted juvenile offenders to a specific kind of treatment appropriate to their age, but it did not have specialized courts for such cases. The concept of giving special treatment to juveniles based on their stage of development was taken from ancient law with few changes. However, this kind of particular protection was not granted when juveniles committed serious offenses. Revolutionary law set the age of criminal responsibility at 16 for criminal matters, and sanctions could differ according to an assessment of the minor's judgment. The Penal Code of 1810 formalized the principle of educational treatment concerning juveniles, citing the negative consequences of imprisonment and the necessity to reeducate in such cases. "The law promulgated on June 25, 1824 and April 28, 1842, settled, to a certain extent, the privilege of jurisdiction, the competence for penalties was incumbent upon courts. Following the August 5 and 12, 1850 law, protective dispositions were set up, such as the necessity to open specific quarters for juveniles in prisons and also the need to instruct juvenile delinquents (Shoemaker, 1996, p. 110)." The April 19, 1898, law enabled the judge and the court to entrust

the juvenile to the care of a parent, an individual, an institution, or social services. This was the precursor for the evolution of juvenile rights. It took into account the situation of juvenile delinquents and considered the possibility of their endangerment. There was some notion of prevention in the law, but it was not yet formalized in writing.

The 1900's were characterized by a strengthening of the special nature of juvenile justice – becoming more open to the idea of protection rather than repression. The April 12, 1906, law established the idea that the importance of repression should be diminished and that education should be enforced. At this time, the law was also changed, raising the age of criminal responsibility from 16 to 18. On July 22, 1912, a special jurisdiction and the first separate courts for children and adolescents were created. A new probationary system, based on the idea of freedom with supervision, was put into place. It allowed for the surveillance of minors who stayed with their families.

b. Germany

In early centuries (1500's), a penal law existed for people of all ages stating that youthful offenders who can not exercise control over themselves, due to their immaturity or for other reasons, should be treated only after consultation with experts.

The earliest German criminal code (Constitutio Criminalis Carolina,

by Karl V, 1532) included specific clauses pertaining to young offenders. Though seeming to be very futuristic thinking for the times, to have real meaning, the criminal code needs to be viewed within a historical context. For centuries, the childhood experience in Germany was shaped by the child's family status and need for labor. In the 1700's, the State worked to increase school attendance and encountered problems from parents who wanted the children to remain home and work on the farms or in other roles contributing to the family income. When they assumed the breadwinning responsibilities of an adult, children were not regarded as having special needs, and did not receive much intensive parental care. "Sons were raised to be self-disciplined, emotionally controlled, strongly aware of the boundaries between themselves and others, individualistic, and morally upstanding. Girls were raised to be willing and able to take on the serious moral, emotional, managerial responsibilities of organizing a household and raising children but without having the aspiration to aspire beyond its walls" (Hawes & Hiner, 1991, p. 312).

By the end of the 1800's, stricter enforcement of child labor laws and mandatory schooling laws ensured that most children remained in school until age 14. Thus, the transition from childhood to adulthood became more defined. The French Penal Code of 1810, the Bavarian Penal Code of 1813, and the Prussian Penal Code of 1851 influenced the Penal

Code of 1871. Retribution was the dominant philosophy and heavy emphasis was placed upon prevention through punishment. The criminal code of 1871 served to establish a system of juvenile justice in which the age of criminal responsibility was 12 (Schaffstein, 1983, p. 25). Juveniles who possessed the intellect to understand the wrongfulness of their actions were held responsible for their crimes (Weitekamp, Kerner & Herberger, 1998). If the case went to trial, the procedures used with juveniles were the same as those employed in the adult court, but the penalties that were imposed were modified so that they were lighter and more varied, in essence, more age appropriate.

The Youth Court Movement (1891) in Germany was an informal task force made up of practitioners, politicians, and scholars, and designed to promote the idea of creating a completely new juvenile law separate from the Penal Code. The Youth Court Movement took the idea of rehabilitating juveniles from the North American Child Savers Movement (Albrecht 1994, p. 3; Platt 1969). It was motivated by two phenomena. In the late 19th century, Franz von Liszt and the modern school of penal law influenced penal law. Von Liszt advocated for a transformation from the traditional retributist penal law to that of a special preventative penal law (Schaffstein and Beulke, 1993) and the idea of goal-oriented law enforcement. The philosophy behind this movement favored the prevention

of future criminal offenses over repaying guilt with punishment (Weitekamp, Kerner, & Herberger, 1998). For the implementation of this philosophy, there would have to be a shift in the prevailing juvenile justice system, placing the emphasis on the individual delinquent so that rehabilitation could occur through educational measures. This trend coincided with developments in the fields of biology, psychology, and sociology that resulted in the enhancement of children and juveniles in society (Kerner and Weitekamp 1984, p.200; Wolff 1992, p. 124). The relationship between children and their parents changed. Responsibility for youth welfare and the protection of youth and young people came under the State, and thus, was of public concern (Schaffstein and Beulke 1993, p.21).

Legal reformers, backed by law scholars, initiated their own grassroots movement to advocate for the establishment of separate juvenile courts in response to legislation that lagged in the central parliament (Reichstag). As a result of their efforts, local judges and court precedents established the first juvenile courts in Frankfurt, Koeln, and Berlin in 1908. In 1917, the reformers founded an organization called the Youth Court Association.

Debates centered on whether to create a unitary system for juveniles or one that had different legal rules and jurisdictions for child

welfare and juvenile justice. A bipartite system was chosen. The Youth Welfare Law (1922) guided the system by which children and adolescents were provided with the means and ability to develop themselves physically, psychologically, and intellectually. This system also created "legal guardianship" for endangered or at-risk youths. The second component of this system became Youth Court Law (1923) which is the juvenile justice policy used today.

Traditionally youth have moved through two major "rites of passage", as they evolve from childhood to adulthood. These rites of passage, or milestones, can be described as successfully progressing from school to work and leaving the home of one's parents to a home of one's own (usually as a result of marriage). Modern society has altered these trends due to societal developments and the growing acceptability of lifestyle alternatives. Examples of this would include an increase in the number of single parent families and life-long learning options (such as adult vocational training). Other examples would include rising unemployment, poverty, remaining financially dependent on one's family of origin (including young adults who return home after leaving home for a period of time due to financial constraints) and/or the availability of welfare benefits. It is speculated that frustration with these factors may cause a rise in deviant or delinquent behaviors in today's youth, due to their potential

for having a negative impact on the youth's identity. These youths may perceive their situation as disappointing or even hopeless. A report from the 10th Criminological Colloquium, Council of Europe, 1991 concludes that particular attention must be paid to the causes of youth criminality by examining factors such as gender, socio-economic conditions, housing, family and social background, and first and second generation immigration. It was felt that combinations of these factors increased the potential for criminal behavior in some young adults. In addition, recidivism seems to be a growing problem among juvenile delinquents.

Today, Germany follows the positive law tradition of Roman and Napoleonic jurisprudence, wherein the highest legal authority is the written law itself, rather than utilizing a case law system. A current trend in European juvenile systems is towards restorative justice, or treatment techniques that hold low level offenders accountable for their behaviors. It emphasizes healing to restore both the victim and the community.

6. Youth Crime

Delinquent populations of young people require a response from the larger community by way of social policies; legislation and laws designed to address their needs and those of their families. Government now assumes a role that has been traditionally filled by intervention from the family, church and

schools. "Another contributing factor is the anonymity and reduction of intervention on the part of the informal social control agencies such as family, neighborhood, school, church, etc." (Junger-Tas, Boendermaker and van der Laan, 1991, p. 64). In 1996, Shoemaker stated that in his opinion, the responsibility for youths is shared by the family and state (p. 126).

Wilensky, Webbert and Hahn (1985, p. 68) addressed the "increasing public involvement in measures to sustain, control, or act in place of the family." They go on to describe a spectrum of services and populations in which government is now involved, "...sometimes seeking to protect the interests of society (i.e. institutions for delinquents)." Social policies, "...emerge of necessity to meet essential social and economic needs which increasingly cannot be met by unaided voluntary and private means" (Ginsburg, 1992, p. 15).

Most European countries agree upon the principle of "education instead of punishment" (i.e., refraining from the traditional punitive sanctions) is more appropriate for the treatment of juvenile offenders. However, countries do not agree upon their definitions of what they consider to be criminal behavior.

Several general trends characterize juvenile justice policy in Europe. One of the most pronounced is the handling of young adults within the juvenile justice system. They are frequently grouped with minors to

allow them to benefit from more flexible law and special jurisdiction, but they can also be considered as adult criminals, judged by the same courts and sanctioned, with some restrictions, in the same manner. In some cases, they may be offered options specialized just for young adults. There is a consideration of the developmental needs and individual nature unique to the juvenile inherent in these crime policies. In this way, the educational component of the system is maintained.

The European Committee on Crime Policy made several recommendations as a result of its 10th Colloquy, held in 1991. It recommended that young adult offenders be subject to rules of procedure safeguarding their fundamental rights and ensured rapid intervention by the authorities so that the cause and effect relationship between the offense and society's reaction is clear to the offender and has an educational value. It was generally felt that detention on demand should be used only as a last resort and restricted to exceptional cases, particularly where detention is in an institution intended for adults. Sentences and measures in open or semi-open institutions were preferred in order to keep the young adult in touch with life in the community. In addition, it was suggested that sentencing should incorporate an educational mission that allows young offenders to catch up on studies, occupational training, constructive leisure activities, or a sport. A recommendation was made that imprisonment be replaced by

more positive punishment such as fines, prohibition from driving a motor vehicle, or probation. It was recognized that in order for any of these recommendations to be considered, there would have to be adequate resources in place, which should included qualified staff.

Interest groups, professionals, and academics are promoting joint research and evaluation studies. The trend in Europe is not towards developing a unified model of legislation or law for all countries. The emphasis is on opening the lines of communication regarding individual approaches to juvenile justice policy while respecting the historical context of every member of the Council of Europe.

For instance, the French are concerned that juvenile delinquency is a problem that impacts children of younger and younger ages. Most European countries share this concern. There is particular concern with recidivism. The French approach is to place the focus of juvenile justice on education and firmness. At the same time, they set as a priority the right to insure security for all citizens. They believe that without security there can be no freedom (liberty). Youths can come into the juvenile justice system from age 13 until age 18. Youth ages 16 to 18 can be treated as adults. It is generally felt that the courts should take actions that educate but are firm, and have sanctions that are adaptive and appropriate. In addition, the courts should avoid putting minors in prison.

In Germany, the rate of juvenile delinquency has been increasing as reported by police. Statistics show that younger children are committing crimes. Police statistics from the German Internal Affairs Minister Otto Schily indicate that crimes committed by children and youth has increased from previous years. Crimes committed by youths under the age of 14 have increased significantly. These reports are in light of the fact that overall crime in Germany has decreased slightly (source: More crimes committed by youth , de-news@mathematik.uni-ulm.de (German News), Tu. 25.05.1999 21:00 CEDT/ 5/25/99 7:54:07 PM Eastern Daylight Time). There is a distinction between minors (ages 14 to 18) who come under the sanctions of juvenile criminal law, and adolescents (ages 18 to 21), to which the juvenile criminal law may also be applied. To be able to interpret crime-statistic data, one must adhere to the divisions provided by the statistics (Junger-Tas, et al., 1991, pp. 63-64). Anyone younger than 14 is not considered to have responsibility in terms of criminal law. Juveniles can be held criminally responsible if, at the time of the act, their moral and intellectual development was sufficiently mature for them to comprehend the wrongfulness of the act and to act accordingly (Shoemaker, 1996, p. 127). A proposal is being developed to lower the age of criminal responsibility to 12.

A federally unified concept for controlling juvenile delinquency

does not exist in Germany. There are two kinds of organizational structures, both of which are in existence in Baden-Wuerttemberg (Germany). The first is a centralized system, where specialized juvenile departments are established. This entails all cases involving children or adolescents (as suspects, victims or witnesses) being handled by one department. This system has proven to be well suited for large cities. The second model is a decentralized system, in which police stations (departments) employ juvenile specialists. The decentralized employment of juvenile specialists is aimed at having appropriately trained officers available whenever there is regular contact with children and juveniles. This form of organization lends itself well to operations by police forces in rural areas (Junger-Tas et. al, 1991; 65).

In Germany, court practices regarding the treatment of young adults under juvenile law vary according to the type of offense committed and between regions. The variance seems to be between the North and the South, with the northern states being more likely to apply juvenile law to young adults. This inequality between states is considered to be unconstitutional and, legally a violation of individual rights.

Juveniles sometimes are punished more severely than adults for the same type of offense. A careful study in Germany of all cases of theft/embezzlement, including adults and juveniles, and controlling for the

number of previous convictions (Pfeiffer, 1992), showed that juveniles run a higher risk than adults of being sentenced to custody and to youth arrest. Twice as many juveniles as adults were placed in pre-trial detention. Another difference is that the average length of time spent in custody or pre-trial detention was longer for juveniles than for adults. Therefore, despite educational and resocializing intentions, juveniles often get heavier sentences than adults and their legal rights still are not observed as they should be (Junger-Tas, et al, 1992, p. 83).

7. Focus of the Case Studies:

The Committee of Regions is part of the European Union, of which Germany and France are members. Its purpose is to promote regional and local participation in the development and implementation of European Union policies. At the same time, it seeks to preserve regional and local identity. The Committee of Regions has developed a project to promote regional cooperation referred to as the "Four Motors of Europe". The original members of the "Four Motors for Europe" included the Rhone-Alps and Baden-Wuerttemberg (along with the Italian region of Lombardia and the Spanish region of Catalonia) due to their being "the most active industrial and commercial nuclei of their respective states".

In 1988, these four European regions formed a working partnership

with the objective of promoting a socially and economically united Europe by developing a "Europe of Regions". In 1989, Ontario joined this partnership, and since this time a cooperative relationship has also been established with Wales. Cooperation occurs both multi-laterally and bi-laterally within areas that include the textile and clothing industry, university partnerships, environmental issues, agriculture, school sports programs and pupil exchanges, arts and cultural programs (grants and scholarships), and telecommunications. Regional conferences are held on social topics, specifically on the topic of policy development and implementation. The primary objective of this project is to enhance working partnerships with the objective of promoting a socially and economically united Europe.

This dissertation is composed of two single case studies that will focus on France and Germany. I will explore national – local relationships between the Länder (Germany) and the regions (France) and their national governments regarding the development of juvenile justice policy. To do this effectively, I have selected Baden-Wuerttemberg (Germany) and Rhone-Alps-Auvergne (France) as areas representative of rapidly growing urbanization challenged by issues of juvenile delinquency.

France and Germany are appropriate candidates for comparison due to differences in their governmental and legal systems. France and Germany both have legal systems based on the positive law tradition of Roman and

Napoleonic jurisprudence (Shoemaker, 1996, p. 125). Theoretically, the highest legal authority is the written law itself, rather than court decisions interpreting the law. Law is primarily determined at the national level and is administered at the regional level. Proposals for reforms are initiated from the states, go through the state Ministry of Justice and then are forwarded to the national legislators.

France has had, until recently (1992), a strong central government, while Germany's government is largely decentralized. Recent reforms to decentralize government in France have resulted in a greater delegation of decision-making to the localities, which was previously done on a national level. Paris, the capital of France, is home to 10% of the French population in what is a primarily an urban country. High concentrations of its population can be found in major cities (however, the greater landmass of France is, in contrast, largely rural). This disparity in population contributes to France being a centralized system. Not only does a large percentage of the population live in Paris, but also all governmental functions emanate through Paris. Germany has a Federal bicameral parliament as compared to France's unitary bicameral parliament.

France and Germany also possess cultural differences regarding family, specifically as it relates to the domain of the family versus the government. Germany is one of the States that has pioneered in the area of social policy, and

because of that, its experiences have been more exhaustively scrutinized by social scientists. Germany is largely a collective society, while France is considered an individualistic society. These factors may account for some of the differences in policy formation between the two countries.

Baden-Wuerttemberg borders France to the West, Switzerland to the South and, lies across from the waters of Lake Constance, Austria. The area suffers from a lack of raw materials and infertility of the soil. In lieu of this, medium-sized companies provide economic stability to Baden-Wuerttemberg.

Baden-Wuerttemberg is known for its mechanical, electro-technical and automotive engineering industries. It is a center for research in the areas of information technology, biological and genetic engineering, microsystems technology, aerospace, power engineering, and environmental technologies. As a media center, it publishes 30% of Germany's newspapers and 40% of all Germany's books, and is home to a wide range of regional and local radio stations. Stuttgart is the capital of Baden-Wuerttemberg and the center of most government activity.

The Rhone-Alps-Auvergne is located in Southeast corner of France. To the North, are the regions of Bourgogne and Franche-Comte, to the South, Languedoc and to the West, Auvergne. To the East are found Provence (France), Italy and Switzerland. The economy of the Rhone-Alps is supported agriculturally by fruit, wine, and cheese (milk) production. The major industries

include textiles, chemical products, and tourism. Manufacturing in this region produces aluminum, plastics, metal works, industrial equipment, leather shoes and sportswear. It is also known for its electro-metallurgical industry. Lyon is the capital of Rhone-Alps and as such, is a growing commercial and cultural center of France. Given this, the region compares favorably with those of such major European economic regions as Baden-Wuerttemberg.

This dissertation essentially will be an analysis of policy determinants for juvenile justice policy in France and Germany, supported by information gathered through focused interviews in Rhone-Alps (France) and Baden-Wuerttemberg (Germany). I have chosen these two areas of Europe for this study, because they share the following characteristics, representative of high urban development:

1. A sharp contrast between areas of high urban density and non-urban areas
2. High economic development, i.e. industry, with mutual interests in the fiber optics technology
3. High research and development interests
4. Both are members of the "Four Motors for Europe" and participate in regional cooperation
5. A disparity of jobs in different employment areas
6. A shortage of jobs and manpower

7. Above average earned incomes, per capita wealth and disposable incomes
8. Both share similar environmental problems common to urban areas

8. European Union

There is a lack of consensus on the meaning of "social sphere" within the European Community. This is especially apparent in the implementation of the Social Charter. There has not been consensus as to what areas are better served under the responsibility of the European Community and which areas are better dealt with by the individual countries. The European Community has proven to be a poor integrative mechanism with regards to social policy and has spent limited funds on social policy in comparison with other areas of priority (Hayward, 1995, p. 398). The individual governments do not recognize the European Community as having any particular competence in the areas of social services, benefit transfers to individuals, or, as the interviews which are part of this research will confirm, juvenile justice. "The European Union has had only a limited impact on most aspects of social policy. For example, it has had no impact on the development or implementation of juvenile justice policy which has been left up to the individual countries" (Hayward, 1995, p. 390).

The "Standard Minimum Rules for the Administration of Juvenile Justice" were adopted in November 1985 by the UN General Assembly. The rules introduced a dual model of due process and welfare. These rules recommend that the aim of the juvenile justice system should be to ensure the well being of the juvenile and make sure any reaction to juvenile offenders is always proportional to the circumstances of the offenders and the offense. The rights of the juveniles are guaranteed at all stages of court proceedings. These rights are assured through basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of a parent or guardian, the right to confront and cross-examine witnesses, and the right to appeal to a higher authority. Similar principles were adopted by the Committee of Ministers of the Council of Europe in September 1987 and published as recommendation no. R (87) 20 on "Social Reactions to Juvenile Delinquency" (Junger-Tas, 1992).

Typically, the European Union does not have much influence on this level of law. It works primarily on the level of economic and internal security issues. It may take a more active role in addressing juvenile justice at some point in the future. The general discussions generated by the European Union regarding juvenile justice stem from the fact that every member country experiences the same problems to varying degrees. All

countries seek to shorten the judicial process and intervene earlier, but how this is accomplished is the decision of each individual country. Differences in youth law do occur between countries, for example, those, which exist between Germany and the Netherlands. Since youth go back and forth between countries, the policies of one country have an impact on the other. Juvenile justice policy is state oriented and not influenced by the European Union. Most member countries do not feel that the European Union is competent to have authority over youth policy.

The European Union has provided grant funding to training projects initiated by member countries that prepare young people for a profession by providing them with the education necessary to obtain an entry level position. Juvenile delinquents are among the youth that can benefit from these programs.

II. IMPORTANCE OF THE STUDY

1. Deterministic policy analysis

Dye (1980, p. 3) wrote that, "Policy analysis is finding out what governments do, why they do it, and what difference it makes. These are three separate but interrelated tasks: describing public policy, determining its causes, and assessing its consequences". "Why they do it", in other words, systematic, comparative research of the determinants of public policy, is the focus of this

study. This research endeavors to compare in a systematic fashion the policies of France and Germany to search for probable linkages between policy differences and the differences in social, cultural, economic, political, and institutional conditions.

Much of learning is accomplished by comparing one thing to another, noting similarities and differences. This is the essence of comparative analysis: the process of identifying characteristics that may be either similar or different between two or more items, or in this case, countries. In both France and Germany proposal for policy amendments typically originate in the localities. In this study, the juvenile justice policies regarding delinquent youths will be compared in France and Germany by conducting an in-depth study of the juvenile justice systems and the process of developing policy proposals in both Baden-Wuerttemberg and the Rhone-Alps.

Government policies may vary between countries, even though they may be designed to address a common problem. This is due to the many social, cultural, economic, and political factors that potentially can impact policy development. Thus, policies that address similar issues may look very different from one country to the other. It is not enough to describe these similarities and differences. To be helpful to policy makers, justifications must be provided to account for these variations. One can observe that policies are different, but questions should be raised as to the causes of these differences. Further

exploration is needed to explain why social policies have developed as they have in different societies. By accounting for policy variations, information can be obtained that may prove useful in its applicability for other countries facing similar societal problems. Decision-making regarding social policy becomes less random, and more theory based, as relevant variables are identified. In the best case scenario, comparative analysis offers new responses to common social ills.

Deterministic policy analysis affords us a means by which to explain why governments have developed policy in a particular manner. Policy variations between two countries can be accounted for by analyzing a variety of factors and determining which are the most significant for each country. Utilizing comparison, it can be established whether the policies are different or similar, and an explanation of findings can be offered by way of significant factors.

2. Deterministic policy literature overview

The inquiry into the causes, or determinants, of public policy seeks to establish linkages between the effects of political institutions, processes, and behaviors on public policies, as well as the impact of social, economic, and cultural forces in shaping public policy. "In scientific terms, when we study the causes of public policy, policies become the dependent variables, and their

various political, social, economic, and cultural determinants become the independent variables" (Dye, 1995, p. 5).

In Treadway (1985), a study is referenced in which it was determined that environmental and political system variables influenced policy outputs. Though these variables were identified, the author points out that the variables were not used to explain why policies vary among states. Given this, he suggests that the research was not evaluated appropriately for its potential contribution to the understanding of determinants of policy outputs. Treadway's findings have led to further empirical studies. Along the same lines, the work of Richard Hofferbert (1966) serves to establish relationships between environmental variables and policy. Thomas Dye, in his book, Politics, Economics and the Public: Policy Outcomes in the American States (1966), presents data which show that economic development is more important than are political system characteristics in the determination of policy. Sarah McCally Morehouse (1981) makes an argument for the importance of the political system in the formation of policy. In her work, Morehouse contends that welfare policy is determined by a combination of socioeconomic, participation, and leadership variables.

Policies are the result of a complex interplay of factors. As is evident in the examples given, various measures are used to calculate and measure the degree to which independent variables affect dependent

variables. A strong relationship between causal factors and the dependent variable leads to a conclusion regarding the potential for impact on policy formation. The task of the researcher is to find probable links (relationships/associations) to determine factors (system characteristics) that impact public policy (Treadway, 1985).

The challenge of deterministic policy studies historically has been to identify whether political structures and processes, rather than socioeconomic needs and resources, have a stronger impact on shaping public policy. The difficulty has been in establishing causality. Some studies have shown probability, pointing to certain identified variables that do exert an influence on policy making, but not to the exclusion of all other factors. To show causality, the association of the independent variable with the dependent variable must be proven, time ordering is established, and all alternative explanations are ruled out.

3. Comparative Public Policy

Comparative public policy has been referred to as "the study of how, why, and to what effect, different governments pursue courses of action or inaction" (Heidenheimer et al., 1983, p. 2). Studies of comparative public policy raise major questions facing policy analysts that might not have been raised outside of a comparative context. "Without

some degree of comparison we are unable to say whether problems of policy are peculiar to certain types of political and economic system or whether problems are inherent in the policies themselves" (Higgins, 1981, p. 12).

A major advantage of comparative policy analysis is that, with careful use of established theory and methods, one may be able to apply a successful experience in one setting to another setting. The policy issues may be similar in both situations but the solutions differ. When the solutions resemble one another enough, we gain new perspective, knowledge and information on the policy issues. Furthermore, problems of implementation encountered in one country or community may be avoidable in other similar situations. Emphasis on public policy development and organizational theory obviously are important developments in today's public administration (Jun, Public Administration Review, 36, No. 6 (Nov/Dec 1976); p. 641-7).

Leichter (1979, p. 6) identifies the mission of the comparative study of public policy as being, "the development of theory - that is, statements about the relationship between public policy on the one hand, and political, social, and economic systems variables on the other". He goes on to explain, "...rarely does any one factor operate in isolation. The policy context usually involves a simultaneous interplay of more than one situational, structural, cultural, or environmental influence...these policy-related factors vary (i.e. have greater or lesser influence) according to the policy area" (Leichter, 1979, p. 40).

Yet, it is an area that has met with criticism. Naomi Caiden summarizes the state of comparative public policy research by saying that,

the aspirations for comparative public policy research have been set high and the understandably results have fallen short. There are plenty of data, and even some theorizing, but the approach has not been systematic. It has been difficult to control variables in comparative context, and differences come to overwhelm similarities. Theoretical assumptions diverge. Countries for study are chosen accidentally. Studies are often descriptive and lack theoretical interest. American methods and concepts are uncritically transferred to other contexts. Complexity and uncertainty defeat reliable prediction. Values and preferences pervade and influence analysis. Lack of a general theoretical framework hinders the cumulating of research results (Caiden, Public Administration Review, 48, No.5 (1988), pp. 932-33)

However, the reservation cast on past studies should not be a deterrent for future research in this area. "The dire warnings of the anti-comparativists who argue that precision is impossible are largely irrelevant. No one should be deterred from seeking some answers because they fear that the ones they do find will not be perfect " (Higgins, 1981, p. 10). This study will address many of these concerns by utilizing an open/closed framework for systematically examining the development of juvenile justice policy in France and Germany, unearthing similarities and differences. The intention of this study is to contribute to the theoretical base of comparative studies in public policy, not limited to juvenile justice policy but which may extend to social welfare policy and other policy areas

4. International Comparative Research

Europe is particularly well suited for international comparative research

due to its diversity and variety of cultures Diversity, "contributes to the awakening of contrasting national identities, is the only element that permits the perception of what characterizes people and systems" (Dogan and Pelassy, 1984, p 5) The authors elaborate by adding, "Comparative studies point out and denounce ethnocentrism, and in this way they certainly contribute to its lessening." Higgins (1981, p 13) supports this denunciation of ethnocentrism and warns of its limitations, "Ethnocentrism limits our familiarity with different ways of solving problems and may lead to the conclusion that the present way of doing things, and our way of doing things, is the only way of doing them". This takes on additional importance with the progression of European unification "Although a number of institutions and research networks for cross-cultural research in Europe already exist and operate on a very high level, further efforts are required..." (Dierkes and Biervert, 1992, p 22).

International comparative research in the social sciences is a necessity when the researcher wants to a) ascertain which are the common components of cultural and social systems or wants to prove that different cultural phenomena can be related to some structure or model (theoretical research), b) to verify whether a certain observation can be formulated as to empirical generalizations (descriptive research), c) to ascertain whether one or more specified characteristics occur under definite social conditions, d) to know to what extent a social or cultural phenomena, which is relatively constant within a specific society or culture, has a broader range of variability when a number of different societal types are compared (Niessen & Peschar, 1982, pp 14-15).

5. Comparative Social Policy Research

The necessity for further research in the area of social policy has found support among social science researchers over the past three decades. Authors Rodgers, Greve and Morgan view the task of meeting the social needs of families and providing for their welfare as being, "a recognized challenge to those concerned with social policy and administration in all highly developed industrialized countries today" (Rodgers, Greve and Morgan, 1968, p. 16).

Rodgers, Doron, and Jones (1979, p. xii) go on to explain, "...the comparative approach will be best served by making more case studies, focused on particular areas of social policy, in two or more countries". Higgins (1981, p. 41) agrees that, "both similarities and differences do, indeed, exist in the social policies of industrialized countries, and that it is important, both in terms of 'understanding' and 'explanation' to study them."

Comparative studies give clarity to the complexities of differing systems and trends, helping us to better understand the social policies of various countries. Nations can benefit by understanding how particular social problems are handled in another country, to help in determining which responses are appropriate for application to their own situations. This expands a nation's options for responses to mutually held social problems, and leads to informed choices.

It bears mentioning, however, that some scholars see inherent dangers

in drawing lessons from the experience of others. Higgins (1981) cautioned that lessons may be "inadequately learned" so that one country is lured into imitating the policies of another without sufficient regard for the differences between nations. Studies of different systems of welfare widen our horizons, expose our cultural biases and set out a number of policy responses. Comparative research is emphatically not prescriptive. Its aim is to explain rather than to prescribe (Higgins, 1981). Explaining why governments select particular policy options over others is the focus of this study.

A cross-national approach to social welfare policy highlights the limitations of one's own "national" frame of reference (Madison, 1980). Comparative studies lead to new interpretations and a fresh outlook on social problems and have the potential to lead to improved international cooperation. The evaluation of social policies and their effectiveness is only meaningful in light of the expectations of their beneficiaries, policy-makers and administrators. Often a country's priorities are revealed by what they are, or are not, prepared to sacrifice to make these expectations become reality (Rodgers, Greve and Morgan, 1968).

The overall advantage of comparison in social policy is that it "permits the researcher to identify the social determinants of policy and to differentiate between culturally specific causes, variables, institutional arrangements and outcomes and those which are characteristic of different systems and different

countries" (Higgins, 1981, p. 14). In this study, the examination of social determinants will be considered within the context of culture, administrative structure, goals and objectives among other factors, which vary between France and Germany.

6. Public opinion, the news media, and public policy

In this study, the choice of frequency of media coverage as a measure of public opinion and influence in policy making can be supported by the literature on the subject. David Pritchard (In Kennamer, 1992, p. 101) elaborated upon the extent to which news media function as link between citizens (the public) and policymakers. This connection commences with the public's awareness that a problem exists. The news media are a primary source for the public to learn about public issues, as well as by their own personal experiences. The magnitude to which a problem is perceived to be of importance by the public can be influenced by the amount of coverage a news item receives in the press. The more coverage an issue receives, the more members of a community perceive the issue to be important (Wanta, 1997, p. 7). The "perception of importance" is influenced by the number of column inches devoted to a news topic, its placement within a paper, and the number of times it appears in print (referred to as "agenda setting"). Social learning occurs when individuals

are exposed to media coverage; they process the information presented, and, from it, learn about societal issues as "framed" in a certain way. In 1991, Duenkel, in his presentation to the European Committee on Crime Problems, emphasized the impact of public opinion on the choice of crime policy in democratic societies. Duenkel (1991, p. 94) cited the coverage of violent crime in the German mass media (and by scholars) as an example of the impact of the media on legislative processes and court procedures

The first step in proposing and implementing solutions to a problem is a recognition that a problem exists. "The mass media helps society achieve consensus on which concerns and interests should be translated into public issues and opinions (Shaw and McCombs 1977, p. 3)." David Pritchard (In Kennamer, 1992, p. 2) argues, "the news media serve as sources of information about public opinion and even serve as surrogates for it." Yoel Cohen (1986, p 59) writes, "The views expressed in the media are equated with public opinion." Therefore, the connector between public opinion and public policy often focuses on the press. The news medium is an appropriate resource to assess public opinion because it reflects information collected on police blotters, it creates public reaction, and thus contributes to the formulation of public opinion.

"There is considerable evidence of a direct link between the agendas of the news media and the behavior of policymakers" (Kennamer,

1992, p. 105). Relevant to this study is the premise that legislators often equate media coverage as an assessment of public opinion. In lieu of direct measures of public opinion, policymakers may tend to use indirect indicators to assess levels of public reaction, such as noting the extent to which the news media report on a particular issue. The news media carry the opinions of elites in the policy process and thus provide a mechanism by which elites "talk to" each other.

Rogers and Dearing (1988, p 83) define agenda setting as one of the major effects of the media on society. Agenda setting emerges from the process of "Gatekeeping". Gatekeeping is, "the process by which the billions of messages that are available in the world get cut down and transformed into the hundreds of messages that reach a given person on a given day...Gatekeeping is important because gatekeepers provide an integrated view of social reality to the rest of us" (Shoemaker, 1991, pp. 1, 4). Originally articulated by Bernard Cohen (1963) and elaborated upon by many others (McCombs and Shaw, 1972; Shaw and McCombs, 1977; Weaver, Graber, McCombs, Eyal, 1981), the agenda-setting hypothesis states that one of the most important effects of the media is its influence on the public's perceived importance of an issue. Issues that attract media attention also attract the attention of the public. If public opinion does influence the formation of public policy, then the agenda-setting hypothesis

must also have some degree of relevance. The influence of media and the public's agenda with regards to public policy development can be referred to as agenda building

When using measures of media, as will be done in this study, the issue of time lags must be addressed. Time lags exist between the time the information reaches the public, the time after that when the public forgets the information, and the time it takes for public agendas to change as a result of public reaction Wanta (1997, p. 14) suggested that a logical time frame for agenda setting effects to occur would be four weeks Zucker (1978) argued that a time lag of less than two weeks would not allow enough time for agenda setting effects to reach all individuals in a society, but supported Wanta (1997) by stating that media content of more than four weeks may be forgotten by media consumers. Winter and Eyal (1981, p. 14) also argued for an optimal time lag of approximately four weeks. A time lag actually may be suggested by an examination of the time periods in which public debate occurred that led to the dates on which amendments were made. The amount, nature and saturation of coverage given a particular topic by the media affect time lags (see Lang and Lang, 1983)

In Mediating the Message, authors Shoemaker and Reese propose a hierarchical model, diagrammed in concentric circles, to illustrate the various influences on media content. The center represents the influence of

the characteristics of individual media workers. The next circle represents the influence of media routines, that is, the routines that accompany the role of journalist in writing and reporting the news. The influence that originates with the media organization itself, its organizational structure, ownership, is located at the third tier. The fourth level represents the influences that come from outside of the media organization and are part of the external environment. Shoemaker and Reese refer to this as the "extramedia" level. At the fifth level content is influenced by symbols that, "serve as a cohesive and integrating force in society (p. 221)." Shoemaker and Reese refer to these influences as "ideological" influences that come from the culture itself.

The role of the journalist is to investigate, analyze and discuss This introduces the interpretive function of newspaper reporting. They are also responsible for dissemination, that is, getting information to the public quickly At times, they may act as adversaries. The role of the journalist may be weighed more heavily in one of these areas over the other. Media content has an effect on people and society Perceptions of reality can be presented as objective reporting of the facts or by subjective interpretation.

Public attention gravitates towards negative news over positive news. In the West, progress is expected, while failure is considered to be the exception. Negative news is thought to rally people's interest in change

and progress. It tends to be more vivid and intensive (i.e disruptive to the status quo). It serves as part of the "surveillance" function of the media.

Presenting news from a variety of viewpoints makes news fair and (hopefully) truthful (this is an example of content influenced at the "individual level", given the Shoemaker and Reese model). This goal is supported by the public's free access to information and the presence of an autonomous mass media. The term autonomous is used here in the sense of having the ability to make their own rules of operation (content influenced at the organizational level), set their own goals, and decide their own content (content influenced at the media routines level). An autonomous mass media is both active and spontaneous.

News media serve a variety of roles and functions. The media define an issue and its parameters, and focus on common elements of an issue. There is not only one "truth", given that issues are very complex, multi-dimensional and are open to a variety of reactions and interpretations. Given the complexity of issues, the various media may not arrive at the same conclusions. A society can only tolerate a certain amount of randomness in behavior or the environment. Predictability comes from consensus engendered in part by mass media. It is essential in the avoidance of anarchy.

In as much as news media pass along society's social heritage, they

also serve to reflect and challenge the existing system. They can move us beyond the parameters of our everyday lives so that we may experience life vicariously To varying degrees and through a variety of methods, mass media help maintain social, political and economic systems. The role of news media is to educate the public by filling the multiple roles of informing, persuading, and entertaining (Martin and Chaudhary, 1983)

There are a number of ways that newspapers can be assessed. These include their presentation of "hard" versus "soft" news, the extent to which the newspaper is silent on the reporting of social and political news, and the space allotted to advertising, headlines, and photography or political cartoons, and whether they are considered sensationalist ("yellow") or informational press.

News can be defined in terms of how news judgments are made, including decisions concerning what actually goes into the newspaper. Shoemaker and Reese refer to this level as "media routines". The evaluation of the quality of newspaper reporting given its potential for news-worthiness versus its entertainment value, is an important factor in this determination. News can be defined in terms of interest, proximity, importance, size, novelty, and timeliness There exists a "news of the elite" which focuses on important people, and their activities. In the West, this includes the exposing of a person's personal and public lives. Whoever

assumes the role of "gatekeeper" is an arbitrator who is guided in part, by what he or she thinks the audience wants to know about most or what will hold the loyal audience (Martin and Chaudhary, 1983).

The definition of news can vary by culture. The authors refer to this level as the "ideological" level. Newspapers are culturally imbued with their own nation's practices. National newspapers reflect their nation's identity by delineating elements of a particular country's political and cultural development. For purposes of this study, news will be defined within a French and German context.

III. Comparative Research

1. Comparative Methodology

Methodology is a set of rules and procedures that links a theory to the empirical phenomena that it attempts to explain A comparative approach to methodology seeks to distinguish the similarities and differences between systems (Kohn, 1989). "Research that focuses on differences is less likely to unearth similarities and to teach lessons worth learning in a new setting. Projects designed to discover similarities are more likely to find them and to propose transferring experiences. These approaches are two sides of the same coin and they need to be used in a complimentary fashion" (Dierkes, Weiler, Antal, 1987, p. 513).

The act of comparing identifies patterns, relationships, and both unique and common experiences (Agranoff and Ragin, 1991). It is the examination of social phenomena in two or more societies, countries, cultures, etc. in a systematic manner (Niessen and Pechar, 1982, p. 45). Comparative research is a search for laws about the relationship of variables, dependent and independent, and an effort to account for the same by way of systematic and integrated theory (Merritt, 1970). To analyze by comparison involves constantly referring back to what happens in the real world, and understanding how different people perceive these happenings (Rodgers, Greve and Morgan, 1968, p. 3).

The methodology in comparative research most commonly employs one of three approaches: the case study design, problem solving studies of policy issues, and aggregate data analysis. It can also utilize a combination of methods that might include one or more of the following: historical analysis, survey research, small group participation, participant observation, content analysis, and time-series studies.

In the comparative case research approach, cases are developed systematically through use of multiple sources of evidence, investigating phenomena within their contexts, and then analyzed by comparison. The use of comparative case research can be as rigorous and systematic as virtually any other method. The comparative case study approach differs

from the traditional single case study in that it examines multiple situations within an overall framework. Generally, the research proceeds from a common research design, involving the same hypotheses or research questions to be investigated in each case. Cases are built individually by careful research design through a combination of methods. After cases are researched and developed, they are analyzed comparatively. Similar to other methods, the approach is designed to look for unique and common experiences, patterning of variables and relationships (Agranoff and Ragin, 1991, pp. 203-204).

Theoretical perspectives and paradigms in the social sciences are incorporated into the study. Sound theory construction proceeds from generalizations drawn from case studies as well as from aggregate data analysis (Dierkes, Weiler, Antal, 1987, p. 487). The key to verification of theories is that you never actually verify them. What you do verify are logical consequences of the theory.

Comparative methodology begins with a common conceptual framework and research design in its examination of more than one single case study using set hypotheses and research questions. Standard definitions, statistical methods, and multiple sources of evidence are applied uniformly. Comparative methodology is a useful research tool when attempting to establish how differences between policy areas

influence the policy process.

Time/space considerations involve comparing equivalent time periods, or more than one societal system over several points, e.g. time-series studies (Oyen, 1990, pp. 45, 188). Social structures have a space and time dimension (Bendix, 1963, p. 537). Suchman (1964, p. 129) concurs, "Comparative studies which deal with two or more different groups at different times might most meaningfully be viewed in terms of generalizations, explanations, and predictions where the time and space (geographical) factors are incorporated as control variables into the statement of the generalization itself." Further support comes from Przeworski and Teune (1970, p. 18), "Most social scientists are more interested in finding out why social phenomena occur than where and when. But all observations of the sociopolitical realm are anchored in time and space." Elaborating on the impact of time and space for comparative studies, Kohn (1989, p. 34) writes, "To the degree that laws (about societies and other social phenomena and process) were often meant to be valid for broad spaciotemporal regions of the social world, their verification usually involved the use of data from various areas of time and space – in principle from more than one society."

To paraphrase Deutsch, "A large part of human learning has always occurred through comparison" (Dierkes, Weiler, Antal, 1987, p. 505). As

one learns about other countries, one inevitably learns about one's own. In this pursuit, the question arises as to how much one really needs to know about a country as a whole before an adequate explanation or interpretation of social phenomena (which is always context-bound) can be ventured (Niessen and Peschar, 1982, pp. 8, 49). Even so, determining when someone has an intimate understanding of a culture, history, traditions, institutions and/or a mindset of a country and its people always can be a point of debate. "The investigator must have an intimate knowledge of each culture in which he is working and must ultimately make a qualitative assessment of the 'fit' between theoretical predictions and data (Warwick and Osherman, 1973, p. 28)." In addition, "The choice of countries should always be determined by asking whether comparing countries will shed enough light on important theoretical issues to be worth the investment of time and resources that cross-national research will require (Galtung, 1967, p. 440)."

In comparative studies, problems occur in regard to issues of comparability between methods, concepts, and indices. For example, law and public administration approach cross-national comparisons with concepts that are clearly defined within each country, both in statutes and court renderings. But these concepts are not identical between countries even though they address similar issues. Comparative legal studies analyze

the concepts, which most closely approximate each other among countries, identifying differences and permitting the observation of behavior patterns across the cases studied. Often attempts may be made to infer that behavioral differences are attributable to institutional diversity and thus, ultimately, to different cultures and values (Dierkes, Weiler, Antal, 1987, p. 478).

Other problems can include data collection, issues of equivalence, establishing functional research teams, language, and other areas of on-going controversy. Language equivalency played an important role in understanding concepts that varied between languages. For example, the American concept of 'policy' falls under the European definition of 'law'. Another example occurs with the term "education", which in the French language means both education and upbringing. Obviously, these are the kind of issues that have the ability to complicate comparative studies.

Problems in data collection can be characterized by variations in census data categories and definitions, differences with regards to the definition of units, statistics that do not cover the same period and poor data bank accessibility (Niessen and Pechar, 1982). Data in one country may not exist in another, and if located, may be unreliable or inaccurate, which can affect the reliability of the researchers' conclusions (Dierkes, Weiler, Antal, 1987). Madison (1980) notes that the data may not be

objective or detailed, and there may be differences in reporting procedures between countries as well as the manner in which the data are presented. In another situation, there may be a lack of and ambiguity about empirical data, as well as a lack of uniformity of methods underlying the tabulation of national statistics.

Equivalence is the establishment of sameness. It is important because it can bias the results of a study making comparison invalid. There is a distinction made between establishing absolute equivalence (no difference between national settings) and relative equivalence (when there may be equivalence in various settings). Conceptual equivalence is the comparability of ideas rather than looking for that which is "identical". It becomes important in the development of questionnaires and coding answers, because it establishes equivalent indices of the underlying concepts (Warwick and Osherson, 1973). Equivalence of measurement affects reliability (the consistency of a measurement) and validity (the extent to which something measures what it says it is going to measure).

It is not uncommon for comparative research to be done by researchers from several different countries. Problems can occur with regards to the diversity such research teams represent. It is sometimes difficult to get researchers from different countries to agree on a common theoretical frame of reference, a research design, research goals and

standardized work methods (Junger-Tas, Terouw and Klein, 1994; Berting, Geyer and Jurkovich, 1979). Madison (1980) adds cultural differences and diversity as two sources of potential problems in comparative work. Differences of opinion occur with regards to what constitutes reliable sources of data, as well as how to account for variance when comparing statistical tables and graphs between countries.

Language skills are a definite asset to comparative research. "Competence in languages extends the comparisons that can be drawn in social policy (Higgins, 1981, p. 19)." Diekes, Weiler, and Antal (1987) simply state, "Multilingualism is essential." Language raises problems for comparative researchers in terms of semantics (meaning) as well as variances in definition and terminology (Madison, 1980, pp. 69-70). Warwick and Osherson (1973, p. 13) observe that bilinguals may use their native language differently than monolinguals in the same society. Differences between languages in terms of grammatical construction and gender versus non-gender languages also can alter meaning Linguistic equivalence can potentially affect indexing and sampling, the development of non-culture bound categories and rules for interpretation (Holt and Turner, 1970).

There are other issues that can affect comparative research efforts. Ethical dilemmas may develop among researchers (Madison, 1980). It has

been debated as to whether it is easier to do research as a native or a non-native Whereas a native may inspire trust in, for instance, his or her interviewee, the anonymity of the non-native may foster openness (Diekes, Weiler and Antal, 1987, p. 510). Other areas of controversy debate the usefulness of small "n" versus large "n" studies (the latter of which can be difficult, time-consuming and costly), generality versus complexity, adopting a qualitative approach versus a quantitative approach, and/or searching for common patterns versus patterned diversity (Kohn 1989, p. 65). Too many comparative research projects remain descriptive rather than analytical, and are thus unable to provide a basis for more general understanding and prediction (Dierkes, Weiler, Antal, 1987, p. 500). There may be differences, which occur with regards to the units of analysis and their meaning, or levels of analysis (micro, macro). A barrier to researchability may lie in the unwillingness of respondents or informants to discuss sensitive topics and this may differ by country and culture. The researchability of a concept may vary because respondents are unable or unaccustomed to discussing a particular topic or subject area (Warwick and Osherson, 1973, pp. 15, 16). Difficulties in research may be attributed to differences in communication styles and cultural bias. Cultures deal with expressions of conflict and criticism in very different ways.

2. The Value of Comparative Analysis

After identifying characteristics inherent in social policy, an attempt can be ventured to answer the question, "Why does social policy development take the form that it does?" One way to approach this question is by way of deterministic policy analysis, which attempts to establish linkages between social, cultural, economic and political factors and the development of public policy.

Basic comparative research can make three contributions to top policy makers. First, policy deliberations can be improved by a better grasp of the degree to which social spending and program development are constrained by distant social, economic and historical causes and the degree to which social policy is a matter of political choice. Second, by studying specifically broad policy options and program emphases chosen by diverse countries confronting similar problems, this research brings a wider range of policy options to view. Finally, insofar as this research uncovers the social, political, and economic consequences of different types of social policy and levels of social spending, it can improve the policymaker's understanding of real opportunities and constraints (Wilensky, Webbert, Hahn, & Jamieson, 1985, p. 4).

Higgins (1981, pp. 6, 26) identifies the usefulness of comparative methodology as its ability to, "highlight some of the key issues in social policy

in different societies...Indeed, the failure to compare has, in the past, led to inaccurate accounts of how and why social programs have developed in different societies." In 1980, Madison stated, "Comparisons are made to identify the reasons for similarities and differences" (p.18).

Using two single case studies followed by a comparative analysis, this study will describe how juvenile delinquency is addressed, as a policy issue, in these two areas of countries different in culture, language and social philosophy. Deterministic policy analysis will serve as a tool to explain why juvenile justice policy is addressed in a particular manner. "An increased emphasis on making our endeavors more comparative - across time, across countries and language areas, across policy fields and disciplines...can also become a means toward the end of producing better intellectual products" (Heidenheimer, 1983, p. 461). Huddleston comments on the insights that can be gained through comparative analysis. "To say that one knows something or understands its nature is to say that one has recognized its special properties by comparing it with other things, either in time or in space. The more comparisons one makes, the more comfortably one rests in one's knowledge" (Huddleston, 1984, pp. 4, 5). There is as much benefit in studying institutions and policies that can not be transferred from one government to another, as there is in studying those that are generic enough to be useful cross-nationally. Comparative studies illustrate not only the basis for decision making that differs

between two countries facing a similar problem, but also reasons to explain why they chose to select one alternative over the other. Problems facing one Western government are often similar to those faced by other Western governments, especially given the status of European States. "Comparative analysis is integral to theory development and testing. It is necessary for identification of key concepts, relations among concepts, and the underlying logic or dynamic of the associations" (Bekke, et al., 1991, p. 28). "Comparative research has been one of the chief sources of human knowledge and learning. It can be used both to develop theories and to solve practical problems (Dierkes and Biervert, 1992, p. 22). "To compare is a common way of thinking. Nothing is more natural than to consider people, ideas, or institutions in relation to other people, ideas, or institutions. We gain knowledge through reference" (Dogan and Pelassy, 1984, p. 3). Higgins (1981, p. 13) believes that social science research is enhanced when a comparative approach is used, "Analysis, explanation, and the drawing of generalizations in the social sciences frequently necessitates the use of comparative data."

Comparative studies require the researcher to look beyond his or her cultural lens. Dogan and Pelassy (1984, p. 9) wrote, "...the perception of contrasts makes researchers sensitive to the relativity of knowledge and consequently helps liberate them from cultural shells." Aberbach and Rockman (1988) make the claim, "...we not only understand our own system better when

we compare, we gain a better understanding of the methods, concepts, and theories we employ." We compare to evaluate more objectively our situation as individuals, as a community, or as a nation" (Dogan and Pelassy, 1984, p. 3).

Dogan and Pelassy (1984, p. 3) comment on the contribution of the comparativist, "By enlarging the field of observation, the comparativist searches for rules and tries to bring to light the general causes of social phenomena". Przeworski and Teune (1970, p. 31) view comparative research as "the process of theory-building and theory-testing (which) consists of replacing proper names of social systems by the relevant variables." Comparative analysis implies that both variables and contexts may vary.

Through the framework of systems theory, the open/closed dichotomy will be applied to single case studies of France and Germany. This study will attempt to demonstrate that France and Germany differ substantially in the 'openness' of their policy-making processes. A myriad of social, cultural, historic and systematic variables will be explored. The 'open' versus 'closed' orientation of a State's system will have an impact on policy making in the juvenile justice area. This study will culminate by comparing and contrasting the findings to illuminate similarities and differences thought to be especially enlightening and insightful to this area of research.

VI. OUTLINE OF THE STUDY

1. Chapter One: Purpose of the study

This chapter introduces the purpose of the study, which is to identify the probable determinants of juvenile justice policy in France and Germany. The problem of juvenile delinquency, in terms of its nature and magnitude, will be presented using France and Germany as locations for this study. Subsections will detail background information necessary to grasp an adequate understanding of this topic. The importance of this study as a contribution to the existing literature will be discussed. Finally, the value of comparative research will be explained and integrated into this work.

2. Chapter Two Review of the literature

A review of research done in the area of the deterministic policy literature will highlight the intention behind previous studies, the methodological tools employed in those studies, and relevant findings. This will be followed by discussion of systems theory as defined by its open and closed system dichotomy. The open and closed systems framework will serve as the determinant of policy formation as proposed by this study.

3. Chapter Three: Methodology/Case Studies

The two single case studies developed in this work focus on the development of juvenile justice policy by comparing the two policies that affect juvenile delinquents in France and Germany. Factors leading to policy proposals in the regions of Rhone-Alps (France) and Baden-Wuerttemberg (Germany) are investigated through focused interviews, and supplemented with quantitative data. The author makes the argument that this methodology is appropriate for a study of the determinants of policy. Deichsel (1994, pp. 197-199) explained, "In European countries, criminal policy, such as juvenile justice policy, is still made at the state and local levels...each country has a different distribution of tasks in the field of criminal justice policy among state, local, and federal governments." The scope of this project encompasses the relationship between policy amendments and the factors that lead to proposed revisions of juvenile justice policy as carried out in France and Germany.

In selecting France and Germany for this study, the researcher has attempted to create a study unique among American doctoral dissertations. Adams and White (1994) make the point that though public administration has a history of research in foreign settings, comparative public administration research about more than one, non-U.S. country is quite rare. "Perhaps the most troubling is the fact that most research on non-American administrative processes remains only minimally comparative in the sense that single-nation

case studies are the norm, cross-national studies the exception" (Huddleston, 1984, p. 5) This further validates the potential usefulness of a study of this kind. Culminating with a comparative component, characteristics and attributes of juvenile justice policy in France and Germany are described and reported in Chapter 4. Furthermore, it is determined which factors most probably influence the creation of juvenile justice policy in those two countries. Finally, the researcher's experiences (i.e direct observation) in the field are given by way of personal observations, in hopes of providing insight to the contextual quality of the research process.

4. Chapter Four: Findings

The research culminates in Chapter Four, a summary of the findings. The literature of public policy is reviewed to identify all of its major characteristics, and the elements common to most policies that may later provide appropriate categories for content analysis. Included in this chapter is a discussion of juvenile justice reforms. Content analysis is applied to each of the juvenile justice policies for France and Germany, and then applied to interviews obtained from key informants in the juvenile justice system. These focused interviews were conducted with the intention of gaining insight to the probable factors that influence policy development in France and Germany, and finally, the nature and process of policy reforms. Information from personal

conversations and interviews with private citizens are included. Statistical data is presented in graph form and plotted against timelines indicating dates of policy amendments or debate. This data is collected in an attempt to verify the impressions gained in the interviews and give further insight to probable factors influencing policy development in each of these two countries.

5. Chapter Five: Summary, conclusions, and suggestions for further research

The final chapter states the conclusions of the study, summarize the study, and propose questions and projects worthy of further research. Dye (1976, p. 78) wrote, "Exploring relationships between public policies and social, economic, and political characteristics of a society is a necessary step in the development of a policy science." This section culminates in a description and discussion of why this research has implications for the social sciences, specifically in the area of juvenile justice policy research. For example, one contribution that this study hopes to make to the field of policy research is to identify a dimension of comparison that can be used to contrast and compare the content of juvenile justice policies in different countries, specifically open and closed systems. Variations in policy making between open and closed systems demonstrates different patterns of influence on the policy making process. This area of research might also be expanded, suggesting a geographic configuration for comparison in France and Germany, most suitably along an

urban/rural divide in France, and one that is divided along "silent" borders, separating the North, the South and the former East Germany.

Chapter 2

I. Review of the Literature

Deterministic policy studies in United States literature are reviewed as a means by which to gain a baseline understanding of this type of policy study and how it has been used to analyze influences on American policy development. The literature review initially focuses on policies that are made at the state level in the United States, but which may be made at the national level in Europe, as is the case with many social policies. The literature review then broadens to include cross-national studies. Since the literature on deterministic policy studies was limited and did not include juvenile justice policies, the scope of the review includes deterministic policy studies that were done in other policy areas. The literature review was done with the intent of examining the methodological tools and variables that were used in past studies to determine why they were used and with what results. This analysis raised questions as to the applicability of past research designs for this project. In an effort to gather information that would either confirm or deny the usefulness of the methodological approaches and variables used in past studies, an interview guide (see Appendix E) was developed for use in focused interviews.

1. Determinants of Policy/overview

The determinants of policy have been well summarized in at least two sources. The first is in Gary L. Tompkins (1985) "A Causal Model of State Welfare Expenditures". The second can be found in J. Treadway's, Public Policymaking in the American States (1985), "Politics versus the Environment" (Chapter five).

Prior studies of the determinants of policy can be divided into three stages or groupings of research evolution. The earliest stage of deterministic research cites two authors and their works, V.O Key, Jr., Southern Politics (1949) and Duane Lockard New England State Politics (1959). Both of these studies examined the influence of political versus socio-economic variables as determinants of public expenditures. Key made the argument that the absence of party competition and political participation in states (especially the South) made competition between politicians for votes unnecessary. As a result, these states spent less per capita for education, health and other social services (Takeda, 1987, p.14). Dawson & Robinson (1963) tested the Key-Lockard propositions using statistical correlation analysis, and concluded that political variables, specifically interparty competition, had a major influence on public expenditures (Tompkins, 1975, p. 394).

A group of later studies found that political variables were less

important than socio-economic variables. Included in this second group was a study done by Thomas Dye (1966), which concluded that economic variables were more important than political variables in the determination of policy. Dye's approach was to apply economic development variables (urbanization, industrialization, wealth, and education) and political system variables (Democratic or Republican control of state government, interparty competition, voter turnout, legislative malapportionment, and a number of expenditure and tax measures) to policy outcomes using partial correlation analysis. A third study of this period was done by Richard I. Hofferbert, the findings of which were later published in "The Relationship between Public Policy & Some Structural and Environmental Variables in the American States" (March 1966). His findings supported the importance of socio-economic variables over political variables. Hofferbert conducted rank order correlation between the independent variables apportionment, party competition, divided control of government, and industrialization with welfare policy orientation, using "liberalness" as the dependent variable.

Of the third group of studies which followed, two in particular, one conducted by Charles Crudde and David McCrone, " Party Competition and Welfare Policies in the American States" (1969), and another done by Ira Sharkansky and Richard Hofferbert, "Dimensions of State Politics,

Economics and Public Policy" (1969) indicated that political factors, particularly party competition and voter turnout, more strongly affected welfare expenditures than did socio-economic factors. Brian Fry and Richard Winters looked at policies that redistribute wealth in their "The Politics of Redistribution" (1970), and also found in their study that political variables accounted for more for variation in their study than did socio-economic variables.

2. Deterministic policy studies/United States

The literature review presented here gives an in-depth look at both the classic and more recent studies done in the area of deterministic policy analysis Some controversy in the field of deterministic policy studies focuses primarily on the selection of methodological tools in deciding which are most appropriate for establishing the determinants of public policy in various policy areas.

"Inter-party Competition, Economic Variables, and Welfare Policies in the American States" by Richard E. Dawson & James A. Robinson (1963) investigated the relationship between political processes and the policies adopted by political systems. It attempts to discover how processes within certain organizations affect policy, specifically, the relationship among welfare policy, the extent of inter-party competition,

and the presence of certain economic factors. Nine American states were used as units of analysis, and their social welfare policies served as dependent variables. The variables then were ranked to provide a means by which they could be compared.

The American states share a common institutional framework and general cultural background, but differ with regards to certain aspects of economic and social structure, political activity, and public policy. This allows basic system variables to be held constant while focusing on the relationship between process and policy.

States were ranked on a continuum measuring the length of time the major party controlled offices. Competition was considered separately for each of three institutions. These are percent of popular vote for governor, percent of seats in Senate held by a major Party, and percent of seats in House held by a major Party. The three measurements were then combined into one by averaging the three percentages (Dawson and Robinson, 1963, p. 277).

For purposes of this study, policy variables were related to competition variables, competition variables were related to socioeconomic variables, and then the policies were correlated with socioeconomic factors (Dawson and Robinson, 1963, p. 286). Inter-party competition was measured by figuring the average of the percentages of popular vote for

governor, the percent of seats held in Senate, and the percent of seats held in the House by the major Party.

The authors looked at the offices that played the most important role in identifying problems of public policy, and the recommending and selecting of alternatives to meet them within the state political systems, specifically the office of Governor and each branch of the state legislature. The study extended over a twenty-one year period from 1938 to 1958. The results were determined by taking the number of terms in the Senate, the number of terms in the House of Representatives, and the number of terms for Governor and finding the percent of terms that the major party had been in control.

The final dimension of competition, which was defined as the percentage of times that control of the government, in this case, the Governorship, the Senate and the House, had been divided between the two parties at any given time during the twenty-one year period (Dawson and Robinson, 1963, p. 277). This measure was computed by counting the number of times, at two-year intervals, that one party held one of three institutions and the other party controlled the other two and then computing what percentage this was of the total number of two year periods. The states were then ranked according to the relationship between party competition and public policies as measured while holding wealth

constant.

Forty-six states were divided into three groups according to their per capita income. The first fifteen on the per capita income continuum were placed in one group, the wealthiest one-third; the next sixteen into a second group, which was the middle one-third; and the remaining fifteen were put into a third group, the poorest one-third Rank order correlation was then computed between inter-party competition and policies (per pupil expenditures, unemployment insurance, and old age assistance) within each of the three groups (Dawson and Robinson, 1963, p. 287). To further isolate the influence of inter-party competition and wealth upon welfare policies, correlations were computed between per capita income and the same three policy measures, controlling for inter-party competition.

The findings revealed that while holding system variables constant, socio-economic factors influence the political process, political process variables influence the adoption of public policies, and socio-economic factors affect policy outcomes.

The following statements can summarize the results of this research:

1. There is a relationship between external conditions (economic) and the level of inter-party competition.
2. Wealth influences, or at least, is related to the extent of welfare policies, independent of the influence of party competition.

3. Inter-party competition does not play as influential a role as other factors in determining the nature and scope of welfare policies.
4. The level of public social welfare programs in the American states seems to be a function of socioeconomic factors, especially per capita income.

In 1966, Richard Hofferbert did a study called "The Relationship between Public Policy and Some Structural and Environmental Variables in the American States". The study examined the relationship between certain major structural aspects of state governments and the content of policies adopted in the states. Secondly, it questioned whether or not the socio-economic environments of the states related significantly to political structures or the types of policies enacted (Hofferbert, 1966, p. 73). Specific structural variables were examined which included apportionment, party competitiveness, and divided party control between Governors and their legislatures.

Hofferbert relied heavily on the Dawson and Robinson (1963) study and selected from their list of revenue and expenditure items those that demonstrate, by a high degree of covariation, a common policy orientation within the various states. These were then combined into a single rank ordering. Hofferbert used ten-year means, calculated on the basis of biennial figures.

The figure used to rank the states by welfare orientation is the sum of the individual ranks of mean expenditures for ten years on the following items: per-pupil expenditure for elementary and secondary education, per-recipient aid to the blind, per-family aid to dependent children, per-recipient old age assistance, and per-recipient weekly unemployment compensation.

Three major conclusions can summarize the study. The structural characteristics of the party system do not explain the kind of policies produced in the states. Secondly, environment probably affects the structure of the party system indirectly. And thirdly, there is a relationship between environment and policy though it is not known which factors link environment and public policy in the American states (Hofferbert, 1966, p. 82).

The study done by Herbert B. Asher and Donald S Van Meter in their work, "Determinants of Public Welfare Policies: A Causal Approach" (1973) used causal modeling techniques to illuminate the policy process. The mode of analysis used to examine the interrelations among a selected set of socio-economic and political variables and several indicators of public welfare policies in the American states was recursive path estimation.

The dependent policy variables employed were:

- Total expenditures per capita, Aid to Families with Dependent Children, 1970
- Total Expenditures per capita, Aid to the Blind, 1970
- State Expenditures per capita, Aid to Families with Dependent Children, 1970
- Average Monthly Payment per Family, Aid to Families with Dependent Children, 1963 and 1969
- Number of Recipients per capita. Aid to Families with Dependent Children, 1963 and 1969

The independent variables used were:

1. Socio-economic variables

- Per capita personal income, 1961 and 1969
- Percent living in urban areas, 1960 and 1970
- Percent Black, 1960 and 1970
- Percent employed in manufacturing, 1960 and 1970
- Percent population below poverty level, 1959 and 1969

2. Political Variables

- Realized compensation for biennium for state legislators in salary,

1962–1963 and 1968–1969

- Adapted Ranney measure of interparty competition, 1956-1964
- Kaiser's measure of the equity of population apportionment, 1962-1967

The findings show that the relative importance of socioeconomic and political variables as determinants of policy outputs differs greatly from one policy dimension to another. The relationship between socioeconomic variables and policy outputs should be strongest in those policy areas where federal participation has been most limited, and where the financial costs are most severe. The availability of resources serves as a major constraint on state policymakers. The impact of percent poor and percent Black on the dependent variables used in this study is generally weak and in conflicting directions. Finally, incrementalism is a determinant of the current level and extent of AFDC benefits. Socioeconomic and political conditions, and subsequent changes were found to be of little importance.

George Downs and David Rocke (Policy Studies Journal, June, 1979) in their work, "Bureaucracy and Juvenile Corrections in the States", examined the impact of bureaucracies on the development and implementation of public policy. Their study looked at the relative impact of change on bureaucratic variables independent of the socioeconomic

environment. The study explored the stability effect of bureaucratic variables across policy decisions, and degree to which they interact (in a statistical sense) with other variables. Multiple regression analysis was used to measure the association between bureaucratic and policy decision variables.

The relationships between political and state socioeconomic variables such as income, education, urbanization, crime statistics were examined. The socioeconomic variables were correlated with political variables such as party competition, political culture, and legislative activity. Dependent policy variables were represented by state per capita expenditures in the area of juvenile corrections, per offender expenditures for juveniles incarcerated in institutions, and the level of deinstitutionalization. This was a cross-sectional study of policy determinants in a single area.

The results indicated that bureaucratic characteristics are generally less socio-economically determined than state political variables. The impact of bureaucratic determinants was different across policy areas, across different outputs within the same policy area, and across different agencies Agency size and percent of unionization were the only two bureaucratic characteristics that were connected closely to socioeconomic determinants.

The findings went on to show that State per capita expenditures in the area of juvenile corrections were related more strongly to economic variables than to bureaucratic variables. Only deinstitutionalization of juvenile offenders showed a high correlation with any of the bureaucratic variables examined

State Legislative Reform: Determinants and Policy Consequences by Phillip W. Roeder (1979) demonstrated that institutions modify existing institutional structures and procedures, or even create new structures and procedures, to try to cope with or manage increased demands and stresses. In other words, institutions will adapt or change in response to external or environmental stimuli. The stresses accompanying socioeconomic change and income inequality in the states are directly related to executive reform, but only indirectly related to legislative reform.

The study employed a causal model with multiple measures of the concepts and a multiple-partial correlation technique. In this model, executive reform was measured by Schlesinger's (1971) index of formal gubernatorial power as of 1967 and by the variable – average state administrative salaries (FY 1967). The salary indicator is the marker variable for one dimension of Professionalism in State Administration – the factor "salaries" (Sharkansky, 1971) The measures of legislative reform that were used are Grumm's index of legislative "professionalism" and the

overall measure of legislative "capability" developed by the Citizens Conference on State Legislatures (1971), based on late 1960's data (Roeder, 1979, p. 57). Minorities moving to metropolitan areas as an aspect of socioeconomic growth was measured by the change in percent of Black population from 1950 to 1960 divided by percent Black in 1950 (Roeder, 1979, p. 55).

It was determined that policy makers could respond to increased conflict and demands in one of two ways, reward and/or punishment (coercion). Welfare spending per capita was used to illustrate the testing of the model for this policy area. The coercion dimension was measured more directly than failure to reward through policy efforts to strengthen state and local police power. To calculate this dimension, it was decided that per capita spending for police would be used in this model (1979, p.58). Complex causal modeling with multiple indicators was used as a testing procedure, utilizing multiple-partials. In addition, an attempt was made in this study to sequence the cross-sections over time.

The findings indicated that certain dimensions of legislative reforms, professionalism (Grumm, 1971) and capability (CCSL, 1971), do directly affect certain public policies in the context of a causal model, including socioeconomic change, inequality, and executive reform (1979, p. 65).

Sharon Gail Takeda (Stanford University, 1997) wrote a

dissertation entitled, "Determinants and Implementation of State Mental Health Policy". The focus of this dissertation was to identify 1) the sources of variation in state mental health policy decision–making and 2) patterns of implementation. This study incorporated research on the determinants of policy outputs, implementation strategies, and the role of the organizational context on both formation and implementation of public policy, in an attempt to explain policy variations. The researcher was particularly interested in examining the determinants of state mental health policy. The variables that represented the mental health sector were centralization of mental health funding, supply of psychiatrists, and number of mental health advocacy groups. Socio-economic variables, per capita income and total population size, were assessed as determinants of mental health policy decisions. For each policy decision (level of expenditures, allocation of benefits, and policy innovation) a path model was estimated to determine the relative importance of the independent variables as policy determinants. A path model was developed to also illustrate the relationships between social and economic factors, state mental health sector characteristics, and policy decisions.

It was found that the relative importance of policy determinants varies by decision type. Psychiatrist-population ratio was found to be an important determinant of both per capita SMHA (State Mental health

Agencies) expenditures and policy innovation (application for a Community Support Program contract). The number of mental health advocacy groups and levels of decentralization were also important determinants of the allocation of SMHA funds to community-based mental health programs, rather than state hospitals. The effects of per capita income on per capita SMHA expenditures were mediated by the supply of psychiatrists

3. Deterministic policy studies/cross-national

The study entitled, "Determinants of Abortion Policy in the Developed Nations" by Marilyn J. Field (Policy Studies Journal, June 1979) examined public policy as it related to issues of fertility, specifically, the conservative, then liberal, expansion of government policy concerning contraception and abortion.

The hypotheses were analyzed with a multi-methodological approach using quantitative data from 29 nations involving independent variables prominent in the literature on birth control and public policy and supplemented by qualitative materials (Field, 1979, p. 772). A ranking of abortion policy in 29 nations was done, placing them on a continuum from most to least restrictive, and from conservative to liberal. The data analysis used a policy change variable that was computed by subtracting the 1962 ranks from the 1972 ranks (Field, 1979, p. 774). The independent, political

and socioeconomic variables used in this study were, 1) per cent population Roman Catholic, 2) per cent legislature Socialist, 3) per capita energy consumption, and 4) per capita GNP. Simple correlation were done between 1) liberalness of abortion policies in 1962 and 1972, and 2) amount of abortion policy liberalization for all nations, including both non-Communist and Communist nations Two cases of missing data were accounted for in this study. Change in the dependent variable (1972 minus 1962 policy ranks) was then correlated with static values of the independent variables.

The findings revealed that the Catholic Church is the dominant influence on abortion policy decisions in non-Communist nations. Leftist political parties, though inhibited by Catholicism, on some occasions appear to make an independent contribution to the content and timing of policy liberalization (Field, 1979, p 777) Political institutions and ideologies do affect the nature and timing of policy decisions on abortion, contributing distinctively to policy differences across nations, at least short term. The increasing visibility of economic factors in the last few years suggested the importance of economic forces affecting fertility related practices, values and policies (Field, 1979, p. 779).

"The Determinants of Health Services Policy: A Model and Two Case Studies", a dissertation by Hans van der Giessen (New York

University, 1988) focused on Belgium and the Netherlands. This study examined the relationship between the structure of an electoral system, a political party system, and the public policy sector. The goal of the study was to develop a hypothesis that could explain the existence of differences in health care policy in two different countries that are socio-economically similar.

The dependent variable was health policy. The level of analysis was the political system. The focus of this study was on the intersystemic similarities and differences in the two political systems Belgium and the Netherlands, where the similarities are controlled and the differences then become the independent variables. The political system was operationalized to mean the electoral system and the formal political structure.

The findings indicated that Belgium's system of variable proportionality (representation) led to a lower level of interest articulation and less vertical integration in the health care sector, while in the Netherlands, the opposite is true.

A study was done by Chulsoo Kim (University of Minnesota, 1992) entitled, "The Effects of Historical Sequencing on Social Policy Adoption: A Historical and Comparative Study of Western Europe, 1891 – 1976, and its Implications for Developing Countries (Welfare State Development)." It examined the relationship between socio-economic and political factors and

three key social actors – state managers, capitalists, and the working class on the development of social policy

Variables such as industrialization at the time of independence, the interests of state managers, and the timing of political institutionalization were used to explain the development of social policy. The two dependent variables of this social policy study were social spending on welfare policy, and the initiation timing of welfare policy legislation The first dependent variable was explained using cross-national or time-series analysis. The second dependent variable was explained through the use of historical data.

Kim utilized a classification of independent variables developed by Foley (1978) according to four theoretical dimensions. The economic dimension, represented by level of affluence (measured by level of education or median family of per capita income, distribution of income) level of diversification of manufacturing or other economic activity, and variables measuring intergovernmental finance assistance or transfer payments. The demographic dimension utilized size and density of the population, and distribution with respect to age and race. The political dimension measured interparty competition, legislative malapportionment, and voter turnout. Lastly, the social structure dimension examined various measures of social power, voluntary association activity, degree of ethnicity, and religion. Event-history analysis was used to examine

longitudinal change of social policy adoption for two separate periods of 1871–1919 and 1920 – 1976, accompanied by qualitative methods to link empirical patterns of social policy development to the general theoretical model.

The author contended that historical development had a significant impact on the interests of the three key social actors and the formation of party systems. In fact, it was found that historical sequencing affected the adoption of social policy in developing countries.

This literature review elaborates on several specific studies to identify work previously done in the area of deterministic policy analysis, the methodological tools that were used, and the variables that were selected to examine determinants of policy by a variety of authors. The intention was to make apparent the similarities and differences between studies that have been previously done and the approach proposed in this study. Most policy studies have relied on a methodology that involved measure of association to determine the relative importance of socioeconomic and political variables for public policy. The statistical techniques of simple correlation, partial correlation (see Dawson and Robinson, 1963; Dye, 1966; Sharkansky and Hofferbert, 1969; Fry and Winters, 1970), and multiple regression (see Crudde and McCrone, 1969) have all been employed in past studies.

This work utilizes a mixed methodology approach to speculate on the probable determinants of juvenile justice policy in France and Germany Information gathered through focused interviews with key informants within the juvenile justice system of each country will be incorporated into the findings, as supported by statistical data. No prior studies taking a deterministic approach to juvenile justice policies could be located for inclusion in this literature review. Therefore, there seems to be a void in the research. The hypothesis that serves as a framework for this study is as follows. France and Germany are different with regards to the factors which determine juvenile justice policy formation, due to the fact that France is a "closed" system while Germany is an "open" system.

4 "Open" versus "Closed" systems

More than competing modes for social analysis, modern theories of closed and open systems can provide useful tools for understanding, predicting, and guiding forces of social change. The significance of closed and open systems will be examined with regard to France and Germany in the modern era, in light of factors that are relevant to the development of juvenile justice policy in those countries. To begin, some understanding of closed and open systems is appropriate.

General systems theory was developed from the work of biologist Ludwig von Bertalanffy. Von Bertalanffy (1956, 1962) described general systems theory as the science of "wholeness". Central to the discussion of systems theory is the distinction that is made between closed and open systems.

The closed system view is based on the assumption that support from the environment is unchanging and predictable rather than problematic. This allows attention to be focused on the internal efficiency of the system, utilizing its resources for the maintenance of equilibrium. The prototypical-closed system is a self-contained entity. Its relationship to its environment is regulated and stabilized in such a way that one can, theoretically, ignore the environment when describing, dissecting, and manipulating the system.

Bureaucracy is often seen as the organizational equivalent of a closed system, as outlined in the work of Max Weber (German sociologist, 1864 -1920) when he describes the characteristics of "ideal-type" bureaucracy. Weber's strongest rationale for a closed system organization was that it could counteract the illogical aspects of human nature and society, including the excesses of charismatic leadership. Closed systems have, however, been criticized for their excessive rigidity, impersonality, and dehumanization (Chandler and Plano, 1988).

Closed systems have been associated with theoretical approaches that ignore systemic relationships with the external environment (Harmon and Mayer, 1986, p. 161-162). Schools of administrative thought associated with the closed model are scientific management, classical organizational theory, and the POSDCORB (planning, organizing, staffing, directing, coordinating, reporting, and budgeting; managerial activities common to all organizations) ideas of Luther H. Gulick (Scott, 1992).

Closed systems can be characterized as being formal, rational, and mechanical. The symbolic structure that best images the closed system is a pyramid in which power, authority, and expertise are at the top, producing vertical lines of interaction. There is a clear division of labor in which job roles unite rank with prestige, and involve task specialization and a clear routinization of procedures. Workers commit to values of efficiency and service to organizational rather than personal, goals. Closed system theory assumes that people are basically lazy, prefer authoritarian leadership and are unable to contribute to the solution of organizational problems. In response, it allows for the use of manipulation techniques. The intention is to create a structure in which common goals, lines of authority, and obedience all work together for the good of the organization (Chandler and Plano, 1988). Closed systems are time-neutral in that they do not evolve

over time. They typically do not adapt to outside factors and are unable to evolve.

Open systems theory views the organization as a biological organism emphasizing system survival rather than internal efficiency. It acknowledges and nurtures a responsive relationship between the system and its environment. The open system can be viewed as a dynamic balance of forces characterized by a constant exchange of energy (i.e. inputs and outputs) with the environment. As a result, open systems are highly adaptable; there is a constant exchange between inputs and outputs. To accomplish this, the environment interacts with the organization, as each becomes "open" to exchange with the other. Systems possessing these qualities are able to consider and implement suggestions from outside sources more easily.

French philosophers Claude Henri de Rouvroy, Saint-Simon and Auguste Comte wrote about the open model in response to the despotism of Napoleon Bonaparte. Their works actually predate those of the closed model. Organizational theorist Douglas McGregor (Theory Y), Elton Mayo, Chester Barnard, Abraham Maslow, Frederick Herzberg, Warren Bemis, and Kurt Lewin described open model theory. The open model functions best in unstable environments and in times of rapid social change. While Max Weber saw bureaucracy apart from society and the citizen, an

open system assumes the symbiotic relationship of bureaucracy and society, and in fact believes that organizations are society. Open systems have, in the past, been criticized for creating situations in which employees can experience role ambiguity. Other critics have pointed out that in organizations based on this model, too much time may be spent analyzing social behavior. Open systems work across time and are more likely to be complex. They exist more frequently than closed systems. Open systems are highly adaptable when profound social changes are required while closed systems are not (Scott, 1992)

Open systems exhibit characteristics such as horizontal versus vertical structures. Authority and expertise are shared throughout the system (organization). Human relations are stressed in that interactions are relational rather than role or task oriented. Personal goals (e.g. achievement and recognition) are realized within the framework of broad organizational goals Loyalty is directed to the organization rather than to one of its subunits. Prestige is based on actual job performance rather than assigned rank. Manipulation occurs through education, persuasion, and peer group pressure. It assumes that people like to work because work gives meaning to life.

a. Administrative culture

The German system of public administration has been criticized for resembling the Weberian ideal type of bureaucracy with its vertical hierarchy of positions, functional specialization, strict rules, impersonal relationships, and a high degree of formalization (Roeber and Loeffler, 1998) Most innovations take place at the local level; therefore, administrative modernization has to be understood as a "bottom-up" process. It has been further criticized as suffering from not being (citizen) "user-friendly", costly, and for not producing enough positive outputs (results). Despite this criticism, this study will argue that Germany is essentially an open system. Germany has a tradition of being historically democratic, apart from the period 1933-45 One thought is that there has been a "backlash" reaction to the "ultimate bureaucracy" of the Third Reich throughout Western democracies, which has contributed to a mistrust of government and the public service.

France's system of public administration is a modification of Napoleonic despotism (i.e. a ruler with absolute power and authority, a system of government in which the ruler has unlimited power). This is their political tradition, even though in 1958 France became a republic. Much of their administrative culture is reminiscent of the Napoleonic era. In contrast to Germany's "open" system, this study will make the argument that

France is essentially a closed system. The study will also show that the "openness" or "closedness" of a system has an impact on its policy decision making process. Table 1 (page 96a, b) is a general comparison of open and closed characteristics that will provide the framework for comparison of the French and German systems.

b. Political Climate

Crime policy follows two primary theoretical perspectives Donnelly (1989, p.457) describes the first as a "conservative" model that proposed the increasing of penalties on criminals to reduce crime. The other is a "liberal" approach that proposes social programs aimed at reducing crime by reducing poverty and alienation. In Germany, the public votes by party platform, while in France people vote for the platform of both the party and the politician. The inclusion of juvenile justice concerns on these platforms can influence the priority of juvenile justice at the national level in France and Germany.

In Germany, the 1994 elections for Chancellor (Head of Government) and members of the legislature indicated that the country would be moving towards a law and order model with regards to juvenile justice rather than a treatment model (Shoemaker, 1996, p. 140). The Kohl administration (1982-98) promoted the "law and order" model over

Table 1

A comparison of open and closed system characteristics

Open	Closed
Informal	Formal
Decentralized	Centralized
Emphasis on personal goals	Emphasis on organizational goals
Horizontal structure	Vertical structure
Interact with the environment	Isolate from the environment
Focus on job performance	Focus on rank
Assumes people like to work	Assumes people are lazy, bad and evil
Interaction is relational	Interaction is role or task oriented
Team-oriented	Division of labor
Characterized as natural and humanistic	Characterized as rational, mechanical, impersonal
Flexible	Rigid
Authority, power and expertise are characterized by a web-like structure	Authority, power and expertise are Characterized by a pyramid-like structure
Consensus as a resolution technique	Authoritarian
Ever-evolving	Time-neutral
Emphasizes system survival	Emphasizes internal efficiency
Constantly exchanges energy with the environment	No exchange of energy with the environment

Highly adaptable	Not easily adaptable
Acknowledges a symbiotic relationship between bureaucracy and society	Views bureaucracy as apart from society and the citizen
Complex	Simple
Tends to exist more frequently	Tends to exist less frequently
In its approach to justice, it stresses the uniqueness of each encounter	In its approach to justice, it is traditional, systematic, routinized

prevention. Kohl is member of the Christian Democratic Union, a Conservative party. In the 1998 election, Kohl's party platform on justice called for the hastening of deportation of foreigners convicted of crimes, a position which reflects conservative ideology (native Germans have typically blamed the increase in juvenile crime on growing immigrant populations). Gerhard Schroeder, elected as Chancellor in the 1998 elections in Germany, is a member of the Socialist Democratic Party, which is Socialist/left-wing Their party platform regarding justice issues stated that citizens should be entitled to receive optimum protection against crime, and this must not be dependent on the individual's financial position.

Lionel Jospin, as Prime Minister of France, is the Head of Government and as such, determines and conducts national policy. He is a Socialist who ran in 1995 as a presidential candidate on a platform addressing justice issues including

- Ensuring the independence of proceedings
- Strict regulation of administrative wiretapping
- A plan to double the budget of justice within the next five years in order to modernize the system

Youth account for one of every four crimes committed in France In some areas, the ratio is even higher. The issue of how to handle youth

crime, up by 11 percent in 1998, is dominating French politics. President Jacque Chirac, a Conservative, and Socialist Prime Minister Lionel Jospin, are expected to run against each other in the 2002 presidential election. Chirac's Conservative Party takes a "no-nonsense" approach to violence. The Conservative Party has been consistently critical of the Socialists' tradition of dwelling on identifying the causes of youth violence, which they view as an approach that amounts to being soft on crime. Jospin has responded to these allegations by reiterating that curbing violence is a top priority for his party. He has publicly made the statement that sociology and the law should not be confused (AOLnews, 4/27/99). Lionel Jospin's French Socialist party has proposed the creation of 700,000 jobs for youth as part of his proposed campaign.

There is an increase in Germany in more serious crimes, whereas the number of lesser crimes (shoplifting etc.) remains constant. There has also been an increase in extortion, in combination with robbery and burglary These acts often involve weapons such as knives, blank cartridge pistols, etc."Youth crime is becoming more violent and more brutal. It is the only booming industry in Germany!" (interview, Mr. Ehrhardt, 5/22/1998).

The French juvenile specialists have examined some of the solutions proposed for delinquent youth of other nations. Generally speaking, French

leftists have largely rejected the British model of curfews for youths French lawmakers negatively react to the "zero tolerance" policing in New York City as being too severe, given the security needs of French communities. German lawmakers have also considered adopting a "zero tolerance' stance, but so far have largely rejected it in place of more relaxed measures.

In working with juvenile offenders, France employs, among other alternatives, electronic surveillance that has not been permissible in Germany until recently. German justice ministers have met to introduce the use of electronic restraints. With the use of electronic restraints in sentencing, criminals could be more easily reintegrated into society. (Source: Justice Ministers want trials of electronic restraints, de-news@mathematik.uni-ulm.de [German News], We 09.06.1999 23 00 CEDT/ Thu. 10 Jun 1999 21:50:56)

Germany has had a measure of success in working with juvenile offenders by providing them with job training programs. France has, for the most part, not invested in its youths to the same level as the Germans.

It is advantageous to have this political history as it highlights some of Jospin's positions regarding justice issues which would not have been brought out had he only been appointed Prime Minister, since Prime Ministers in France are chosen by the President and do not run on a

political platform. The political influence of the Chancellor in Germany over the past 16 years has been Conservative (Kohl) until the 1998 election of Schroeder, who is a socialist. In comparison, during the past 16 years, France has seen Conservatives in the role of Prime Minister four times, representing seven years (not held consecutively). Socialists have served in the role of Prime Minister five times during this period (1982-1998) for a total of 10 years, but again, not consecutively. The greater influence of Socialists in France's political history is reflected in an orientation towards juvenile justice which promotes social and cultural programs for youths and are therefore more "treatment" focused. Conversely, it might be assumed that the influence of Conservatives would create an attitude less towards treatment and more focused on "law and order".

Chapter 3

I. Research question / Hypotheses/Methodology

Systems theory provides a framework for this study. This dissertation makes the argument that France is a "closed" system, while Germany is an "open" system. The "openness" or "closedness" of the systems is demonstrated by a discussion of historical, cultural, political, and socio-economic factors. Because France and Germany differ in their orientation towards open and closed systems, it is hypothesized that the determinants of their policy formation differ accordingly. This study argues that the determinants of juvenile justice policy in France and Germany are significantly different on policy dimensions identified as values, goals, objectives, and accountability, and this difference can be explained.

The research questions that guide this study are as follows:

1. What are the most important determinants of juvenile justice policies for delinquent youth in France and Germany?
2. How are the two sets of juvenile justice policies similar and/or different?
3. How can the similarities or differences between the policies be explained?

Information gained through focused interviews, direct observation and (to a lesser extent) a review of the literature on policy determinants led to the development of the following premise, which embodies the foundation of this study. The determinants of juvenile justice policy will be different for France and Germany, given that the countries differ on the open/closed system dimension.

The following indicators are among the dimensions on which France and Germany may vary with regards to the open and closed dichotomy:

Hypothesis 1:

Policy changes and media coverage are related more strongly in Germany than France due to Germany being an open system, while France is a closed system.

Hypothesis 2:

Public concern over juvenile crime is highly related to public policy formation in Germany due to the openness of the system, while in France it is less so due to the closedness of that system.

Hypothesis 3:

The process of policy making in Germany is more complex due to the open nature of the system, while in France the policy making process is simpler due to the closed nature of the system.

Hypothesis 4:

In Germany, juvenile justice policies are more preventive due to the open system view of human nature, while in France juvenile justice policies are more punitive due to the closed system view of human nature.

The review of the literature on deterministic policy studies (chapter two, page 69) includes some social policy studies, but none specifically addressing juvenile justice policy. The literature review, while illustrating the comparative process, does not provide adequate guidance as to variables appropriate for this study. The researcher adopted, in large part, an inductive qualitative research approach in which interviews with key informants were used to detect important processes, actors and influences significant in the formation of juvenile justice policy. The independent variables that were suggested by the literature review were not corroborated, for the most part, by information gathered through interviews with key informants working in the juvenile justice systems of either France or Germany. The results of those interviews suggest that other factors, not mentioned in the review of literature, would be more relevant and significant to this study (see Table 2, page 103a). These newly suggested variables became the focus of concise systematic study and data gathering. The content of interviews with key informants has been

Table 2

A content analysis of the juvenile justice interviews

A list of concepts that emerged from a content analysis of focused interviews

1. Public opinion/perceptions
2. Influence of the media
3. The Legislative process
4. Population
5. Policy/law/reforms
6. Impact on youth: theory/reality
7. Administrative systems/procedures
8. Values/principles
9. Goals
10. Objectives
11. Money/finances
12. Accountability
13. Immigrants
14. Influence of the European Union
15. Ethics/fairness
16. 1945 (France)/ 1923 (Germany)
17. Diversions/restorative justice

analyzed to identify concepts relevant for gaining a more accurate understanding of influences upon juvenile justice policy formation in France and Germany. In this study, independent variables are indicators of the open and closed systems model, while dependent variables are indicators of some aspect of the policy. A set of concepts emerged from the process of analyzing the content of these focused interviews (see Table 2, page 103a). The concepts cover:

1. The four elements of policy analysis: values/principles, goals, objectives, accountability (as described in Chapter Four)
2. Seven concepts that relate to the four hypotheses of this study.
3. Six concepts that provide information essential to the understanding of policy development in the area of juvenile justice.

1. Research design

This project is essentially two single case studies, the findings of which are compared and contrasted in order to understand more fully the factors that influence policy formation in France and Germany. Two systems of policy making are compared on common dimensions, using several qualitative and quantitative sources of information. The use of a multi- methodological design strengthens this approach.

From a review of research designs that dominate deterministic policy studies, three approaches seem to be most common. The first is a "historical" approach to public policy, in which a case study is conducted using primary artifacts such as legislative minutes, published reports, speeches, and records of court decision-making. The second attempts to illustrate causality as tested by a series of mathematical equations. The third uses the policy as the dependent variable. Simple correlation has been done with logically selected independent variables, which are usually socio-economic and political in nature. This study utilizes elements of the first and third approaches to analyze the two policies that address juvenile delinquency in France and Germany.

To accomplish this research, a mixed methodological approach is employed using both qualitative and quantitative measures to conduct social policy determination research. The researcher's experiences in the field (direct observation) serve as evidence of how the design actually worked and provide insight to the role culture plays in conducting research of this type.

Secondary data is used by way of newspaper archives and public opinion polls, among other sources, providing the major quantitative measures.

a. Procedures

The context of systems theory, that is, a discussion of open and closed systems, forms the overall framework for this dissertation. The literature on policy analysis was reviewed to determine elements common to all policies. These dimensions then became the dependent variables of the study. Using these variables, content analysis was applied to the policies addressing juvenile delinquents in France and Germany. As variations between the two policies were identified, a comparison of the results was made to determine similarities and differences between the two policies.

An interview guide was developed for use in the proposed interviews (see Appendix E). Pretests of the interview guide were conducted with probation officers from the Charlottesville/Albemarle (Virginia) juvenile justice court on April 29, 1998. The pretests tested the fluidity, as well as the comprehensibility of the guide itself. Later, interviews with key informants were conducted within the juvenile justice systems of each country (see Appendix E).

The Governor of Baden-Wuerttemberg, Erwin Teufel was contacted by e-mail. This e-mail communication was preceded by a personal communication from the Director of the Institute of Political Science, Dr. Hrbek, at the University of Tuebingen requesting that Governor Teufel support this research project (the author had met with the

Dr. Hrbek, at an earlier date). An abstract of the research project was sent to Governor Teufel for his review. Governor Teufel delegated to one of his staff the task of arranging interviews with juvenile justice professionals in their State. A Secretary to the Governor (of which there are several: these are doctoral-level professionals who act as his assistants) arranged an itinerary of interviews with juvenile justice professionals to facilitate the research project. A schedule of interviews was followed accordingly during one of what would be four research trips to France and Germany.

A similar letter of introduction accompanied by an abstract of this project was forwarded to the President of the Regional Council of Rhone-Alps and the Mayor of Lyon, France. The President of the Regional Council forwarded the letter of inquiry to the Mayor of Lyon, as he felt that level of government was more appropriate to handle requests of this nature. The Mayor's office in Lyon, France arranged an interview with a cabinet member who later refused to respond to my questionnaire, upon arrival at his office. This cabinet member, however, provided the names and phone numbers of three lawyers who he felt might be willing to respond to my questionnaire. Only one of these lawyers, from the Department of Youth Judicial Protection, actually participated in an interview.

Another e-mail and a copy of the questionnaire were sent to the

Minister of Justice in Paris, France. The Ministry of Justice arranged an interview with Agnes Boissinot, magistrate at the Office of Judicial Affairs (Ms. Boissinot had also served as a juvenile court judge for a number of years prior to her work with the Ministry of Justice).

The Secretary of the State of Baden-Wuerttemberg seemed to better understand the desire for multiple sources to corroborate information acquired through interviews, including exposure to people from a variety of levels within the juvenile justice system. French officials seemed to feel that the opinion of one person from within the system was sufficient to represent the position of the French juvenile justice system. Requesting additional interviews from within the French system seemed to be an imposition.

The content of the interviews was analyzed to identify specific independent variables that held the possibility of serving as predictors of probable relationships. This led to the development of four hypotheses that fit within the framework of open versus closed systems. Variables suggested by the interviews were supported with statistical data, as provided largely by print media sources.

Media attention can be evaluated in terms of number of stories given a specific time period, or column inches. This methodological tool qualifies as having attributes of a time–series design. Time-series design

can be defined as, "a quasi-experimental design in which pretest and posttest measures are available on a number of occasions before and after exposure to an independent variable and/or the activation of an independent variable" (Nachmias and Nachmias, 1996, pp. 138, 599).

Table 6 (see page 240a) illustrates media coverage in prominent French and German daily newspapers during a four-week period prior to the passage of legislation that would significantly impact on the direction of juvenile justice policy given its radical departure from current theory and working paradigm (previously referred to as, "social revolutions"). A timeline covering the period that begins when the original policies were developed charts the dates of policy changes, i.e. amendments (see Amendment chart, Figure 1, page 151a). These dates correspond with policy debates over juvenile justice issues in the legislature and administrative bureaucracy. Table 6 (page 240a) was developed by recording the number of articles published on juvenile justice and the number of column inches devoted to juvenile justice issues in the major newspapers of France and Germany. Specifically, the newspapers used were the Frankfurter Allgemeine Zeitung, Die Welt and Sueddeutsche Allgemeine Zeitung (Germany). The French newspapers used in this study were Le Monde, Le Figaro and Le Progrés. All are major daily newspapers as defined by their readership numbers. Dailies from Baden- Wurttemberg

(Sueddeutsche Allgemeine Zeitung) and Rhone-Alpes (Le Figaro) were included to represent the two areas which were selected as interview sites. Newspaper articles relevant to this study covering periods of "social revolutions" focused primarily on four topical areas. Those areas were: reports of crimes committed, proposed legislation regarding juvenile justice policy (including notification when bills were adopted), sanctions imposed upon criminals as follow-up to previous articles, and commentaries by elected officials regarding crime rates, and types of crimes committed. A four-week time lag was incorporated into the study of print media during the stated periods in an attempt to include articles that may have preceded the passing of an amendment, but whose content might have included a discussion of legislative debate regarding juvenile justice policy. These articles were analyzed for an account of actors involved in the policy process and amendments, and for their orientation towards rehabilitation or punishment.

Each article identified was individually counted measured for column width and length. This measurement was multiplied for total space given to juvenile justice issue. Articles for each time period, by newspaper, were totaled for purposes of comparison between newspapers of column inches devoted to juvenile justice issues, with and without headlines. The prominence of headlines varied, which affected the total column inches. A

record of placement of articles by page indicates the priority juvenile justice issues takes over other news items. Perceptions of importance are influenced by the number of column inches of coverage an issue or event receives in print, placement within a paper, and the number of times an issue or event appears in print.

To illuminate the differences between the two juvenile justice policies, Youth Court Law (Germany) and The Ordinance of February 2, 1945 (France), a table of the specific dimensions upon which the two policies differ is presented (see Table 3, page 151b, c).

German and French law books were used to identify amendment dates. A law book representing each year following the writing of the original policy was consulted to locate dates and content of amendments to the juvenile justice policies in each country, and to confirm the dates of the amendments already identified through the writings of other authors. The Institute of Criminology at the University of Tuebingen, provided documentation that further confirmed the reliability of the amendment dates.

The last available edition of the Juvenile Court Law (Germany) translated into English was dated 1989, therefore, the services of a legal translator were required. One was identified through the Virginia Commonwealth University (Richmond, Virginia) Department of Foreign

Languages. An updated translation, to include all recent amendments, was completed. After contacting a legal librarian at the Law Library of the Library of Congress, it was determined that no translated edition of the Ordinance of February 2, 1945, existed. Again, a French legal translator, identified through the Virginia Commonwealth University (Richmond, Virginia) Department of Foreign Languages, translated the French juvenile justice codes.

The procedures used in this study can be summarized as follows:

1. Literature research at the University of Tuebingen, Institutes of Political Science and Criminology, and the University of Lyon II.
2. Subscribed to online wire services that report on crime and legal issues
3. Personal communication with the Director and faculty members of the institutes at the University of Tuebingen
4. Developed Questionnaire for interviewees
5. Translated questionnaire for interviews from English into French and German
6. Contacted Mayor of Lyon, Stuttgart and Governor of Baden-Wuerttemberg and the Regional Council of the Rhone-Alps to arrange interviews with key informants in the juvenile justice system in those areas
7. Contacted the Governor of Baden-Wuerttemberg to be put in contact

with key informants in the field of juvenile justice in that state

8. Contacted universities in Stuttgart and Lyon to identify potential interpreters from their American studies/English departments
9. Pre-tested interviews with probation officers at Charlottesville Domestic and Juvenile Court, Charlottesville, VA
10. Conducted focused interviews with key informants in France and Germany
11. Translated interviews
12. Transcribed the interviews three times from tape recordings and written notes
13. Analyzed the content of the interviews
14. Developed categories to organize and analyze interview data
15. Applied relevant categories of interview data to the appropriate hypothesis
16. Obtained the most recent edition of the French and German juvenile justice policies from Internet sources
17. Obtained most recent available translations of the French and German juvenile justice policies from the French and German legal specialists at the Library of Congress, Washington, DC
18. Translated the amendments written since 1987 that had not been translated into English

19. Translated the French juvenile justice policy that was not available in English
20. Content analyzed the juvenile justice policies of France and Germany
21. Developed categories to organize and analyze policy data
22. Accessed minutes of the Mayor's council (Lyon) when agenda addressed juvenile crime
23. Accessed list of government publications from the government printing office of France and Germany for publications on juvenile justice policy and structure of the legislative process
24. Used Internet sources to access information on political parties, their platforms and in France, the candidate's platforms
25. Developed a list of the political parties in office and their candidates during the last twenty years to track their impact on the development of juvenile justice policy
26. Contacted national public opinion polls via e-mail
27. Researched archives of public opinion poll research groups using keywords related to juvenile justice
28. Reviewed French and German law books by year since the writing of the original policy
29. Developed comprehensive list of amendments

30. Contacted Institute of Criminology at the University of Tuebingen, the Ministry of Justice, Paris, France; and the French and German government publication offices to access information that would confirm amendment dates
31. Developed a comprehensive chart of the dates of amendments in juvenile justice policy in France and Germany against a timeline for comparison
32 Contacted the prime minister's website in France for information on the legislative structure
33. Contacted the Ministry of Justice in Paris, France to identify a key informant in their system to be interviewed
34. Conducted additional focused interviews
35. Research trip to the Santa Fe Institute (New Mexico) to study prior research and theory in open and closed systems
36. Print media database research (archives) of media coverage for all articles relating to juvenile crime, justice four weeks prior to the passage of major amendments
37. Contacted the French and German embassies to obtain a list of journalists working in this country
38. Developed questionnaire for journalists
39. Called and e-mailed journalists to notify them of the study and the

questionnaire being sent to them and attempted to solicit their cooperation

40. Faxed the questionnaire to the journalists

41. Contacted the journalists (13) for responses to the questionnaire

42. Summarized direct observations in the field

b. Data collection

The dates of policy amendments have been plotted along a timeline for both France and Germany. The number of times (frequency) the media have reported on juvenile justice reforms in terms of column inches and number of articles written is summarized in Table 6 (see page 240a). French and German Law books were consulted for amendment dates and content beginning with the year in which the original policies were written. The frequency of media coverage was researched through indexes for the major newspapers of France and Germany, including those of Baden-Wuerttemberg and Rhone-Alps, as well as the regional sections of Le Monde and other newsprint sources. These newspapers also were available through the Library of Congress newspaper and current periodical reading room. The keywords used in library and archival searches included juvenile crime, juvenile delinquency, juvenile justice, the titles of the policies themselves, and juvenile law and were also cross-referenced. These

categories were kept consistent for use with all newspapers accessed. Documents used included minutes of the Municipal Council for Youth, Lyon, France.

Public opinion is assessed through public opinion polls. The two primary public opinion polls are EMNID in Germany and its sister organization, SOFRES in France, as well as IFOP-Gallup (the French Gallup poll). All were contacted in writing to learn if opinion polls had been done on issues related to crime and juveniles, either by their organizations, or those operated by their colleagues (the organizations have websites that direct the reader to related services).

The findings of the study identified both similarities and differences between the two systems. Juvenile justice policies from the two countries are described, compared and contrasted. The findings answer the original research question by establishing the most important determinants of juvenile justice policy regarding delinquent youth in each country under study. The anticipated contribution this study makes to the field of social science research is to explain why juvenile justice policy is developed in a particular manner in France and Germany, given the open/closed system framework as a deterministic policy factor.

The nature of the evidence brought to bear on the hypotheses includes the following data sources.

- Direct observation
- Focused interviews
- Original juvenile justice policies, with amendments
- Newspapers
- Public opinion polls
- Minutes of legislative meetings
- Law books of France and Germany

2. Unit of Analysis

The unit of analysis is the specific policies (legislation/laws) that address juvenile delinquents in the France and Germany. Ragin (1987) explained that to determine the unit of analysis in the comparative social sciences, one must first distinguish between observational units (the unit used in data collection and the data analysis) and explanatory units (the unit that is used to account for the pattern of results obtained). As an observational unit, the unit of analysis can be used to mean a data category; and as an explanatory unit, the unit of analysis can be used to refer to a theoretical category.

The content of social policies (laws) directed towards juvenile delinquents then are analyzed for the identification of elements that reveal the content, as well as suggest the potential causes, of policy development. This refers to what Dye (1976) calls "causes of the message", in other words, those

indicators that cause policies to be written in a particular way. Single case study designs are utilized to study policy formation in France and Germany. A discussion of each single case study ensues with the intention of comparing one country to the other on the same issues and data gathering techniques to establish similarities and/or differences in the determinants of their respective policies.

3. Mixed methodology

The methodological approach taken depends on the nature of the question, the type of data collected, etc. There are cases in which a combination of qualitative and quantitative approaches to research can be used to enrich and enhance each other.

"The qualitative and quantitative traditions differ. Qualitative researchers usually seek to explicate the meaning of social reality from the participants' perspectives, while quantitative researchers usually seek to understand relationships, often of a causal nature, without particular emphasis on the participants' perspectives (Reichardt and Rallis, 1994, p.11)."

Neither the quantitative nor the qualitative paradigm is completely adequate. "The underlying rationale for mixed-method inquiry is to understand more fully, to generate deeper and broader insights, to develop important knowledge claims that respect a wide range of interests and perspectives (Greene and Caracelli, 1997, p.7)." Measurement results can be informative, but lack the contextual substance, meaning and

interpretation that qualitative methods address.

Considering that social problems seem to exist in an environment of complexity and are therefore difficult to isolate, it is apparent that more diverse methods for understanding and responding are desirable. "By working together, the two traditions can enhance the practice and utilization of research and evaluation (Reichardt and Rallis, 1994, p.11)".

The use of multiple and diverse methods facilitates learning about different kinds of phenomena. The key is to select the appropriate method given the proposed question/problem and population. All methods have limitations and biases, some of which can be offset by the use of multiple methods. This is often the argument made for the use of triangulation, in which different methods are used to assess the same phenomena. "All methods and claims to know are fallible; using multiple diverse methods helps to address this (Greene and Caracelli, 1997, p.7)".

4. *Dependent variable*

Warwick and Osherson (1973, p. 80) explained, "A major goal/task of scientific analysis is the specification of conditions under which an observable range of variation in empirical phenomena occurs." In pursuing this goal the investigator engages in three types of activities:

1. Identifying and specifying the range of variation of the dependent

variable.

2. Establishing empirical associations between other conditions (i.e. the suspected independent variables) and the dependent variables.
3. Establishing the causal or determining status of the independent variables.

In this study, aspects of the policies themselves are the units of analysis that establish the dependent variables. After reviewing the literature on public policy development and analysis (see Chapter 4), four primary categories were selected (referred to in the text as "elements") to be used for analyzing the content of each of the juvenile justice policies for France and Germany. These categories are values/principles, goals, objectives, and accountability. Each category will become a *dependent variable*, representing the most significant elements of each policy. As Dye wrote (1976, p.5) "In studies of the causes of public policy, public policies themselves are the 'dependent variables' and analysts seek to explain these policies in reference to 'independent variables', social, economic, technological, or political forces in society which are hypothesized to be determinants of the public policy."

5. Independent variable

The literature of deterministic policy analysis attempts to establish

linkage between social, cultural, economic and political factors to the development of public policy. Typically, these studies suggest independent variables that can be useful in further studies of similar phenomenon Though the literature on policy determinants focuses on demographic and economic factors, individuals working in the juvenile justice systems of France and Germany would suggest something different. From the content analysis of interviews with key informants, I have selected appropriate *independent* variables to serve as predictors for establishing probable relationships. These emerge after a review and consideration of a variety of political, social, economic and cultural factors that resulted from the interviews conducted in France and Germany. The concepts that have been selected to represent the independent variables used in this study are a) influence of the media, b) policy/law/reforms, c) public opinion/perceptions, d) administrative systems/procedures, e) the legislative process, and f) impact on youth: theory/reality and diversions/restorative justice. The policy content identified by these categories reflects the openness or closedness of the system described. These variations, identified by way of a content analysis of focused interviews with key informants in each system, lead to the stated hypotheses.

6. Single case studies

France and Germany are individually the subject of a single case study. The study as a whole follows a single case study research design.

For Yin (1994), the use of case studies is the preferred research strategy when "how" or "why" questions are being posed, when conditions are such that the investigator has little control over events, and when the focus is on current phenomenon within some real-life context. The case study approach incorporates a wide range of evidence - documents, artifacts, interviews, and observations. Yin feels that case studies have a place in evaluation research due to their ability to explain the causal links in real-life interventions that are too complex for the survey or experimental strategies. He views the objective in an explanatory case study as being the posing of competing explanations for the same set of events as an indicator of how such explanations may apply to other situations. Creswell (1994) who refers to Yin in a discussion on the use of data analysis, explanation building, and time-series analysis supports this methodological approach. Merriam (1988) also relies heavily on Yin's work to support her own research on the use of case studies in educational research. In public administration and political science, studies such as this have been referred to as "comparative", in keeping with the thinking that the methodology of such studies is different than in those of a single-case design.

7. Comparative research in the social sciences

Agranoff and Radin (1991; 229) write, "It has been our experience that a rigorous comparative study methodology is a powerful and relevant approach to public administration research." Their approach to the development of comparative case study design builds on Yin's (1994) thoughts on multiple case research designs. Yin (1994) keeps both the single and the multiple case study design within the same methodological framework. The logic underlying the use of multiple-case studies is the same. Each case must be selected carefully so that it either a) predicts a similar result (literal replication) or b) produces contrasting results, but for predictable reasons (theoretical replication).

Comparative methodology employs a common conceptual framework using standard definitions, formulae and equivalent statistical methods (Rose, 1973, p. 67), and a common research design when examining multiple situations (Agranoff and Ragin, 1991, p. 204). Multiple sources of evidence are used when investigating phenomena within a context (Agranoff and Ragin, 1991, p. 203). Comparative methodology determines the extent to which differences between policy areas influence policy process, assuming administrative activities can be equated (Rose, 1973, p. 67). It investigates the same hypotheses or research question in each case.

Though this study is not "comparative" in the traditional sense, a

comparative approach is useful to examine the hypothesized relationship, therefore drawing heuristic inferences and if demonstrated, strengthening the hypotheses. A "traditional" comparative study involves more than two countries so that the "total sampling units of the population", also known by the notation "N" (Nachmias and Nachmias, 1996, p. 186) is higher than 25, which eliminates bias and can account for more variation. It allows for the quantification of variables and other types of analyses, such as generalizability. A comparative aspect is introduced to this study at the point where the content of the two policies and the findings of the two single case studies are compared and contrasted. The hypotheses are tested on the basis of the open and closed systems framework. The conclusions, which result, are illustrative and preliminary, rather than definite and generalizable.

It is necessary for the subject countries to be similar in some ways, and different in others (Przeworski and Teune, 1970). France and Germany meet these requirements. Due to the limited number of sources of deterministic studies in the area of juvenile justice policy, the dissertation required field research in both France and Germany. Much of this occurred during the fall of 1997, and the spring and fall of 1998.

8. Interviews

The interviews that are part of this study are focused interviews. They involved a non-random, purposive sample of key informants in the juvenile justice field in each country selected for their expertise and experience, supplemented with interviews with private citizens. In Nachmias and Nachmias (1996, p. 234), the focused interview is described as having four characteristics. First, the respondents must have participated in a particular experience. Second, the interview makes reference to situations that have been analyzed prior to the interview. Third, the interview is guided by a set of questions on specific topics that relate to the research hypotheses. Fourth, it focuses on the respondent's experiences as they relate to the topic being studied. Focused interviews begin with a descriptive paragraph informing the respondent about the interviewer and introducing the subject. For purposes of this study, introductory statements explain something about the author, the associated institution, the purpose of my project, and why the respondents were selected for this study. The goal was to rally the cooperation of the interviewee by providing information that may be desirable to him/her (Nachmias and Nachmias, 1996, p.240). In the questionnaire, a narrow distinction is made between questions initiated with, "Do you think?" which requires the interviewee to focus on policy, and questions begun with "Do you feel" which asks the

interviewees to focus on themselves and their own reactions.

The interviews conducted for this study focus more on the measure of objective reality rather than the personal experience of the individual being interviewed. The approach was to ask concrete questions first to get the interviewee oriented and focused. From that point, it was desirable to move to questions where the interviewee was asked to be more contemplative, or to evaluate topics already unearthed or suggested by prior questions. In the optimal scenario, the interviewee would have thought over and considered the issues prior to progressing to evaluative questions The goal is not to obtain the interviewee's first reaction, but rather to get a more thoughtful response (Personal communication, Dr. Scott Keeter, 5/7/98).

The individuals who participated in the interviews were a non-random sample. They were selected by the Governor's office of Baden-Wurttemberg in Germany and the Ministry of Justice in Paris and Lyon for having particular expertise in juvenile justice policy and related issues. Rather than being concerned about issues of bias due to the fact that the interviewees were selected from within their own systems, the study was enhanced by the selection of individuals who were recognized by their respective countries for their knowledge and insight. The private citizens interviewed voiced an interest in juvenile justice matters, which seemed to

grow from a general interest in issues affecting their community.

9. Content Analysis

Nachmais and Nachmias (1996, p. 324) describe content analysis as a method of data analysis as well as a method of observation in which there are three applications. The first correlates with Dye's (1976) first point of policy analysis, that is, describing *what* governments do. The second application of content analysis is to make inferences about the sender of the message and about its causes or antecedents. Dye's second point of policy analysis, the search for *why* governments "do what they do", as would be applied in this case to the writing of public policy, indicates that the application of content analysis provides a very appropriate research tool for a study of this nature. The third application of content analysis is to make inferences about the effects of messages on recipients. This third point refers to effects, essentially implementation and evaluation, and correlates with Dye's "what *difference* does it make?"

10. Reliability

Reliability speaks to the need for consistency or dependability, the extent to which findings can be replicated from the data (Krippendorff, 1980). It is based on the assumption that there is a single reality that, if studied

repeatedly, will produce the same results (Merriam, 1988, p. 170). Without reliability there would not be any scientific progress towards understanding relatively stable causal laws (Bednarz, 1991).

Reliability can be achieved by:

1. Appropriate data analysis and triangulation (which leads to convergence and increased internal validity).
2. Maintaining an "audit trail", in other words, accounting for how data were collected, how categories were derived and how decisions were made through the study (Weber, 1990).
3. Clarifying the assumptions and the theory behind the study (Lucas, 1994).

In this study, reliability was established as information converged between multiple sources, one substantiating the other, establishing triangulation of a sort. The findings gathered through secondary sources were tested by way of corroboration with information gathered through the interviews to increase the confidence level. During the research phase of data collection, a case study protocol was followed which led to the development of a case study database (Yin, 1994, p. 33).

11. Limitations

There are potential impediments to the research in the two countries that might threaten the validity of any comparison. Juvenile justice policy is

influenced and implemented differently on local levels in each country. In keeping with the theme of selecting Rhone-Alps and Baden-Wuerttemberg as two areas which are members of the "Four Motors for Europe", attention may be biased towards the two centers of development, Lyon, France and Stuttgart, Germany. Also, political divisions between the two countries vary and may have an influence on the reporting of data. The extent of newspaper coverage of juvenile delinquency/crime may differ in various areas within the countries. There may be limits to the interpretation of the findings. This study focuses on the policy determination research aspect of policy analysis, as opposed to policy impact research, where the effects of policy decisions on society are scrutinized (Dye, 1976). External validity may be affected negatively because my sample was not randomly selected; it was a purposive sample The case studies illustrate the relevance of the open and closed dimension as a framework for analyzing juvenile justice policy formation. This framework may be useful in examining the determinants of juvenile justice, social and/or other policy domains. The findings are not, however, generalizable to other countries, although the open and closed dichotomy is very useful in understanding a policy making on a variety of topics and might usefully be applied in other comparisons.

Problems relevant to this project include

- Impediments to valid comparison of crime data inevitably rises out of

national differences in judicial structures and procedures, the efficiency of criminal detection, and cultural norms that may sanction violations of formal law.

- Given these cross-national complexities, increased crime rates, for example, may stem from a variety of factors, and an index constructed from them may not be a valid indicator of social disorganization (Holt and Turner, 1970, p. 15).

An independent variable is expected to produce a change in the dependent variable in the direction and of the magnitude specified by the theory. However, variations in the independent variable and the dependent variable do not necessarily mean that a cause-and-effect relationship exists.

One of the most serious methodological issues in all the policy areas relates to the inability of researchers to establish the validity of causal relationships. To a certain extent, this is a data problem. Many comparative studies focus on correlational analysis of aggregate data, and the available data refers to inputs or outputs. The lack of data on outcomes or on the side-effects limits the usefulness of statements based on inputs and outputs. More importantly, contextual analyses are too often divorced from aggregate data comparisons, so that the policy making and implementation processes are not included in the establishment of causal relationships between inputs and outcomes...contextual information is usually obtained through detailed case studies. The question is whether the findings of the case studies are effectively used to enrich the findings from other approaches (Diekes, Weiler, Antal, 1987, p. 507).

This statement supports the use of a multi-methodological approach, employed in this study. The difference between the two policies is identified, as are variables associated with those differences.

The literature indicates that researchers are more likely to establish logical

consequences or probability, rather than absolute causality. The results of this study identify differences and variables associated with those differences. These results may indicate a probable connection or support a causal inference, but will probably be limited to that alone.

A central goal of all social research is to obtain measurements of the phenomenon under study.

> Accuracy may be defined as the generalizability of the measurement taken to all the measurements that might have been taken of the concept in question...a distinction has been drawn between two aspects of accuracy: reliability, or the consistency of a measurement with itself obtained with the same method, and validity, the extent to which a set of observations measures what it purports to measure obtained with different methods (Warwick and Osherson, 1979, p. 26).

In this study, validity is attempted through:

- Appropriate data analysis techniques.
- The degree of relationship between the conclusions drawn and data upon which they presumably rest (Merriam, 1988, p. 165).
- The use of interviews that are reliably and validly constructed (Lucas, 1994).
- Properly analyzing the content of documents (Weber, 1990).

In comparing the two countries, a systematic approach was employed, stressing consistency by using the same set of decision rules, in hope that this

would be the most effective manner in which to reveal both similarities and differences between the two systems (Brinberg and McGrath, 1982). The case study includes information gathered through interviews with individuals in the field of juvenile justice most of whom work directly with delinquent youths. The questionnaire addressed factors which influence the development of juvenile justice policy, such as the nature of amendments, issues/trends, the influence of values, the public, goals (long and short term), the structure of the juvenile justice system, funding and the European Union. As key informants, these interviewees served as primary sources. Standardized questions were administered to the individuals interviewed for the study in France and Germany (Lucas, 1994). By using one questionnaire for both countries to explain what happens in each system, a baseline was established from which to interpret results (G. Rest, personal communication, May 1, 1997). Using content analysis, I attempted to establish a "chain of evidence" (Yin, 1994, p. 33) to further prove content validity Documentary materials, as well as statistical information, were used to corroborate interview findings, increasing construct validity.

Internal validity is "truth value" (Lincoln and Guba, 1985) the degree to which one has confidence in the results. It is the degree to which the findings of the study match reality. Internal validity is improved by the use of triangulation, the use of multiple data sources and the use of multiple methods to confirm

findings (Merriam, 1988). The methodology in this study is designed to achieve internal validity. This study attempts to establish through content analysis and data collection a causal link among factors (i.e. relationships, "whereby certain conditions are shown to lead to other conditions" Yin, 1994, p. 33) which serve to build explanations in answer to why governments act as they do (internal validity).

By adhering to the logic of single case studies in the research design, this study can be replicated (with regards to the operations of the study, such as data collection procedures). The study's findings can then be applied to other situations, thus, having the ability to be generalized, and establishing external validity. External validity addresses the "transferability" of the findings (Lincoln and Guba, 1985).

12. Related factors

The danger inherent in comparative studies is that one encounters difficulties in one setting, while gaining cooperation in another. This, however, follows what would be expected given the open and closed systems hypotheses.

Interpreters were identified in both Lyon and Stuttgart with the assistance of local university Departments of American Studies/ English.

Whereas Germans have access and are open to using Internet services, the French are less open. This is influenced by the fact that statistically more Germans than French own computers. Those who do own computers frequently use the French "Minitel" rather than the other Internet services. Occasionally, they will take advantage of an Internet service provider's "free hours" for a trial period of time, but then return to their own Minitel. This made communication with the French network of contacts more difficult, due to reliance on the phone and postal services rather than through electronic mail.

France:

People working in the juvenile justice system were less likely to agree to be interviewed than people working in the German system. The lack of cooperation among French juvenile justice professionals, in conjunction with the inaccessability of information due to their perceived secrecy, makes research efforts difficult. There is a lack of internal communication between departments within the French juvenile justice system. Perceived "problems" are deferred to other areas within the French system, with no final resolution

France has fewer computers in use than does Germany. There are 8.3 million computers in Germany as compared with 6.3 million computers

in France. Germany has more computers per capita with 104 computers per 1000 people as compared with France that has 79 computers per 1000 people (Computer Industry Almanac, Inc., October 28, 1993). This lack of personal computers among the population makes communcation for purposes of research more cumbersome.

Fewer materials were found in translation from the original French than were located in translation from German. However, there does seem to be an increase in the number of materials printed by government sources and other publishing houses on juvenile justice issues, as indicated by publishing house catalogs. In France, this effort might be interpreted as an attempt to "open" the system by making materials more available to people in and out of the system.

Much of decision-making is left up to the judge's discretion in the French juvenile justice system. There is a definite sense of elitism among those professionals who have been employed in the juvenile justice system for a period of time This elitism correlates with the prestige those professionals give to the French judges. From this sense of elitism comes a perceived disrespect for the public.

The question arises as to how French administrative behaviors/culture affect not only the daily functioning of the juvenile justice system in France, but policy making in general. In this study, the French

system's lack of flexibility and cooperation threatened to bias the research findings.

Germany:

People within the juvenile justice system seem to believe that the public does not understand the problem of youth criminality from all aspects, or the complexity of the problem.

People on lower levels of the system tend to act as advocates, reformers, and transformers. There seems to be some underlying notion about working within an archaic system for the benefit of the youth and identifying with the youth themselves, versus feeling that one is part of a system that, unfortunately, is flawed People at higher levels act as adapters. In this group, their personal opinion may differ with the policy in practice, but they are committed to carrying out the law. Therefore, at the top of the juvenile justice hierarchy there seems to be a feeling/agreement to "adapt" to the legal system. At the bottom of the hierarchy, there is more of a sense that the professionals are there to transform the policy through the appropriate channels, to bring it more in sync with practice, contemporary theory and for the benefit of the youth's development.

There is a political/administrative dichotomy operating within the youth system. There are two systems that compose the legal system. On

one hand is the political system (government), with the responsibility of enacting laws; the other is the administration, which is responsible for maintaining the structure of the system, and implementation.

The vignettes that follow serve as examples of the difficulties encountered in accessing the systems and further illuminate the open/closed dichotomy. These examples serve to 1) illustrate difficulties inherent in comparative research, 2) show how research efforts may result in findings that are difficult to compare because of the differing levels of access, 3) in themselves illustrate the difference between the open and closed systems.

Vignettes:

Telephone calls (France)

Telephone calls to set up appointments for interviews with lawyers were transferred to no fewer than five people, waiting on hold three to five minutes for each connection. The last person spoken to was still not able to make any arrangements. The interpreter's response was, "That's the administrative system in this country". No one in the bureaucracy wanted to make any commitments. No one took responsibility for arranging appointments for the lawyer. No one in the system would admit to knowing where the individual could be located, and no one would offer the name of another person who might be an equally valuable source for an interview. This call was only the first of several calls to government/legal offices that

proceeded in the same cumbersome fashion and illustrates the closed nature of the French administrative culture.

"Hard questions, difficult questions" (France)

I arrived early for my appointment at the Cabinet des Adjoints (Cabinet of Assistants, i.e. Deputy Mayor) in Lyon, France. Past the time of our appointment, a man, very nicely dressed, came to formally greet us. I became conscious of the time he took to read the questionnaire because it was not really *that* long. Several minutes later, after meticulously reviewing the questionnaire he said, "this questionnaire is both complex and difficult, I couldn't possibly respond. It would take me 1 ½ days to prepare a response." This individual knew that I had traveled from the United States for this interview, which made no apparent difference to him. I turned to the interpreter and said, "would he have really prepared answers for the questionnaire?" She said, "no, he was just trying to get you out of his office." This vignette is illustrative of the uncooperativeness, hierarchial, reserved, almost mistrustful nature of the French bureaucrats. There is apparently a lack of concern for customer service in the public sector, at least by this example.

Administrative Culture: Bureaucracy (France)

Commenting on his on-going efforts to obtain dual citizenship (American/French), is Daniel Ryan, a student at the American University in Paris, France. In his view, the public does not protest against the French administrative unresponsiveness because, in spite of all the administrative formality, there are also many loopholes that make it easier to do business in France (which may be only an illusion of ease). There are just enough of these "loopholes" that people feel that eventually they will meet with the "right" person who will let them get away with something if they are persistent, thus making the system tolerable for the public. To make headway, you have to keep going back to the same government official, and invariably each time you will be given a different story. For instance, first being told to bring documents, then being told that you do not need them or that you need other documents is a common occurence. In Mr. Ryan's opinion, because civil employees virtually have their jobs for life, they can do pretty much whatever they want. Information requested is often not provided, or may only be a few copied sheets of paper. In administrative offices, minor officials or office staff members will walk by and typically offer a greeting. On the other hand, higher officials will usually ignore the public, say nothing, and may not even make eye contact (personal communication, Daniel Ryan 9/14/98). These comments are

evidence of the "closed" nature of the French system: the separation of the citizen from their public administrators, the acceptability of favoritism, the hierarchy structure, the formal, almost sterile nature of the administrative culture, and the infusion of the administrative system with cumbersome procedures.

Collectivism (Germany)

There was disagreement as to the influence of collectivism on German society among German citizens with whom the author spoke. Michaela Strick (state-certified interpreter) commented that everyone in Germany only cares about his/herself. The district attorney (Mr. Ehrhardt) that we interviewed said the same thing, and attributed it to the Kohl administration. This comment was in contrast to the comment of another German native who claimed that "taking care of each other is part of the culture." On one hand, the message seems to be that collectivism is an archaic notion. People are concerned only with themselves. They are interested in society, but only in terms of what the government can do for them. What is implied is that the public is not interested in community concerns or social causes. In contrast to this view, the police and other community representatives promote "Kommunalen Kriminalpraevention" (community crime prevention) as a goal and stress that for it to be

successful, community crime prevention must involve the efforts and cooperation of family, schools, churches, communities, i.e. both public and private initiatives. These public and private initiatives promote cooperation among various sectors of the community, facilitate the pooling of resources, and as such, are examples of the openness of German society

Chapter 4

I. An analysis of juvenile justice policy in France and Germany

This chapter provides a historical context for the policies in the two countries, discusses the elements of each policy comparing and contrasting them. The juvenile justice policies in France and Germany are analyzed in terms of the following dimensions: values, goals, objectives and accountability. French and German juvenile justice policy are further characterized within an open and closed systems framework.

1. Historical context of the policies

The contrast between the two policies can be attributed to their being written in distinctly different social, economic and political climates. The German juvenile justice policy was written in 1923, some time after World War I, while the French policy was written in 1945 immediately after the end of World War II. The Constitution of the Fifth Republic in 1958 supported the general principles underlying the Ordinance of February 2, 1945.

France still was suffering very much the aftermath of World War II. Though Germany faced certain challenges in 1923 that were both economic and political, more time had passed since the end of the previous World War. To establish points significant to this discussion, the contrast will be made between "peacetime" and "wartime". Juvenile justice issues tend to

hold a higher priority on the national policy agenda in peacetime, as opposed to wartime. This contrast is noticeable in the coverage given to juvenile justice issues versus war/reconstruction issues by the news media during these times. War correspondents and their reporting gain attention and notoriety during wartime, while in peacetime, especially more recently, it is not unusual for coverage of the juvenile justice system or youth issues to be done by a reporter assigned to cover such matters. In times of political stability, the public is more willing to incarcerate offenders, whereas right after the end of World War II, the French public saw the need for everyone, including offenders to be free to participate in the reconstruction of France (interview, Ms. Boissinot, 9/14/98). France in 1945 was seeking to restore normalcy in French society.

Another contrast is evident in how law is enforced (or not) during those periods of time. For example, during times of peace, theft is considered to be a punishable crime. Directly after the end of World War II, there were many abandoned houses in France. Many people who had left their homes were either missing or dead, and in all likelihood, would not be returning. This creates an aberrant sense of right and wrong, certainly among the youth, many of whom were left abandoned (interview, Ms. Boissinot, 9/14/98). The result was rampant theft and burglary, much of which went unpunished.

As a point of historical reference, Germany was a unified nation for 74 years (1871 – 1945). It was divided post World War II into West Germany (FRG – Federal Republic of Germany) a democratic nation, and East Germany (GDR – German Democratic Republic) under a Communist government. On Oct. 3, 1990 the two Germanys again became a united nation. As a result of this unification, the area once known as East Germany adopted the juvenile justice policy that had been in effect in West Germany.

World War II left many orphans in France. An enormous number of children were abandoned due to the death of their parents. During the war and in the period following shortly thereafter, the number of juvenile delinquents exploded, due to the fact that a large portion of the population was displaced. The country was in a huge economic crisis. Many politicians of that time had experienced internment during the war. They understood the concept of detainment, even in labor camps. There was also a movement that believed all Frenchmen were needed for the reconstruction. France was not rich enough in children to allow herself to pass by any opportunity to cultivate healthy individuals. All French were needed for reconstruction, including juvenile delinquents (interview, Ms. Boissinot, 9/14/98). One French lawyer remarked,

> "In my opinion, in France the legislation in terms of minors is absolutely fair [i.e., respects the need for stability between the child and society]. We have a remarkable legislation. That is why it has not been changed since 1945 (author's note: the French make a distinction between amendments and reforms; they consider that the policy has been reformed, but not amended.) I think that it was real innovative legislation. In 1945, we realized how important

a child was, there were so many deaths, we realized what the holocaust had done and we understood that a child was the most precious gift one could ever have and therefore deserved what was best on earth. Something had to be done, measures had to be taken, on behalf of these children, in order for them to be successful in life. (interview, Ms. Picot, 5/29/98)

2. Juvenile Justice policies: France and Germany

a. French juvenile justice policy: The Ordinance of February 2, 1945

(Amended: 1948, 1951, 1958, 1965, 1967, 1970, 1972, 1974, 1975, 1985, 1987, 1989, 1990, 1992, 1993, 1994, 1995, 1996, 1997, 1998. Refers back to penal code and law of August 5, 1850 and July 22, 1912).

Prior to September 1945, the Penitentiary Administration dealt with children who were put into prisons or penal colonies. In September 1945, the French government created a specific judicial branch to manage the rehabilitation of delinquent youth This particular branch of the judicial system managed establishments for delinquent youth and provided structures to address acting out behaviors.

The Ordinance of February 2, 1945 states that every youngster has a right to upbringing (remembering that the concept of education for the French embodies both teaching and upbringing). A delinquent youth is always a child who lacks in his/her education and upbringing. In order to solve the problem, an educational solution must be chosen to compensate for this deficit. In its preamble, the law clearly says that penalty is the exception and education is the rule. The law also insured that minors'

rights were protected through the creation of children's tribunals and the institution of children's judges. The role of the judge for children was conceived as not only to search for truth, but also to undertake an educational mission in the administration of sanctions. She/he must know juveniles, understand their personalities, and incorporate this knowledge into their decision making with respect to assessing the mental state of the minor at the time the crime was committed.

Article 12-1 of the Ordinance of February 1, 1945, created the possibility for the public prosecutor of the examining court or the court of judgment to order the minor to aid or compensate the victim or engage in any other type of public service work (Shoemaker, 1996, pp. 119-120). It is a point of interest to note that Germany's reforms of 1990 included and expanded on this concept with "Taeter – Opfer Ausgleich", a sentence handed down by the court requiring payment by the offender to the victim to compensate the victim for losses suffered.

By nature of the ordinance itself, educational measures are imposed with the intention that they will be revised on an on-going basis, to adapt to the minor's situation, which is assumed to be evolving. Thus, constant evaluation is necessary for appropriate intervention. Educational measures are used because of the highly esteemed value and role of education in French society. Punitive measures are in principle, to only be used in

extreme cases, and are intended to be the exception The principles that underlie juvenile penal law in France include education, specialization of functions, and the matching of appropriate sanctions to the crime committed.

b. German juvenile justice policy: Youth Court Law, 1923

(Amended: 1933, 1941, 1943, 1945, 1951, 1953, 1954, 1969, 1986, 1990, 1991, 1992, 1994, 1998. Refers back to Commoner code of 1915).

German juvenile court law was created during the Weimar republic (1919–1933). To increase understanding of the time in which this policy was adopted, one must frame this occurrence within a historical context. World War I wiped out much of Europe's aristocracy and shifted power to the capitalist class whose factories profited from the war effort and to the working classes that built strong unions. The war also strengthened the State in Europe, where governments expanded economic controls and social welfare - a legacy countries still struggle with. In 1923, Germany was experiencing difficulty in meeting its reparation obligations, as determined by the Treaty of Versailles, post World War I. Inflation occurred as the result of trying to meet the reparation agreements with the French. This financial burden destroyed the financial security of most of the German population. This created a social revolution that undermined the

nation's stability.

That same year (1923), Hitler tried to initiate a revolution against the Weimar government (led by Social Democrats) in what was to become known as the "beer hall putsch" (revolt). This was an effort by National Socialists to dominate right–wing parties. The day after the "putsch", National Socialists tried to take over the Bavarian War Ministry. They were defeated and Hitler was sentenced to five years in prison, of which he served less than one year. At the time of this event, it received minimal attention, but became more significant given the role of National Socialism in German history.

In 1923, a special juvenile criminal law was created. The reforms implemented were the result of the influence of rehabilitative thinking in modern German legislation. Changes enacted by this law included:

1. Separate juvenile courts were established and the age of criminal responsibility was raised from 12 to 14 (Kerner and Weitekamp, 1984, pp. 154 -155).
2. It was no longer sufficient to be intellectually mature to differentiate between right and wrong; the individual had to have sufficient moral maturity and the capacity to direct his or her behavior.
3. The death penalty and life sentences were modified to sentences

of less than one and not more than ten years of imprisonment.

4. The imposition of imprisonment could be suspended for a probationary period.
5. The offender was offered social guidance (Schutzaufsicht) by public authorities or private childcare associations.
6. Court proceedings were adapted to meet educational needs of the offender.
7. The public was excluded from hearings.

Today, legislators at the national level in Germany pass amendments, but do not necessarily initiate policy change, which is done more often at the State level or by way of proposals from the Ministry of Justice. After approval, the proposal becomes policy. The national level of government allows the State judges to interpret policy as they see fit, given their experience and education.

A timeline that denotes and compares the dates of policy amendments to both the French and German juvenile justice policy appears as Figure 1 (page 151a). A comparison and contrasting of the two juvenile justice policies appears in Table 3 (page 151b, c).

4. Public Policy Elements/Literature review

A literature review in the areas of policy development, implementation, and analysis leads to the consensus that there are characteristics and elements common to all policies. For purposes of this work, I have focused on the elements of public policy, supported by references from public policy literature.

Elements

There are certain elements that are common to all policies. These elements were used as primary categories for analyzing the content of each juvenile justice policy that was reviewed for this study. The policies used in this study are the Ordinance of February 2, 1945 relative to the delinquent child (France), and Juvenile Court Law (Germany). These categories are referred to as values, goals, objectives, and accountability

Values

All policies embody a value system. Heineman et al. (1990) state, "to understand policy making, one must understand policy maker's values" (p.56). Rochefort and Cobb (1994) agree; "policy choices are always statements of values" (p.8). Moore (1995) says that policies embody an ideology, that is, assumptions, values and beliefs. De Leon (1997) refers to

Figure 1
Amendment
Years

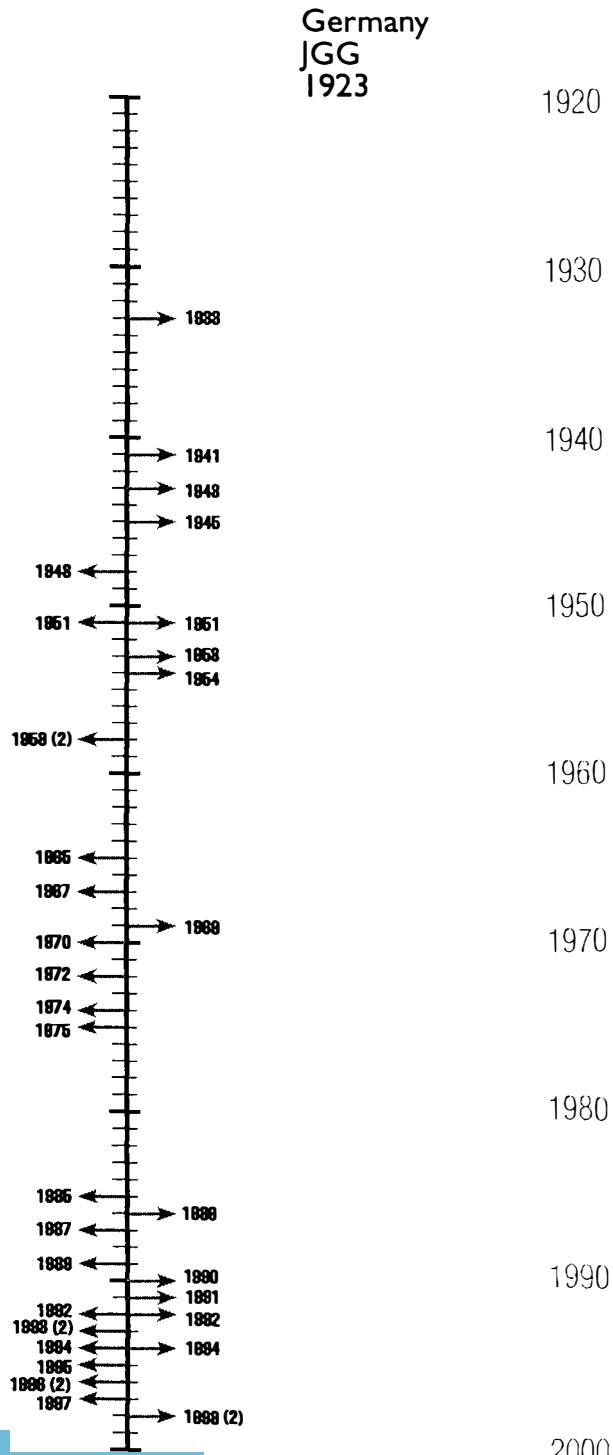


Table 3

Compare and contrast the two juvenile justice policies

French Policy	German Policy
Post World War II De Gaulle & the 5th republic	Post World War I Weimar Republic
Parents can be fined (Art. 26 & 40)	Parents can not be fined
Responsibility for financing programs is designated	No references to financial responsibility
Policy applies to ages 13 – 18	Policy applies to ages 14 to (potentially) 24
Number of references to adult Penal code: 35	Number of references to adult penal code: 17
Heavy emphasis on the role of the judge and the judge's decision making authority: Judge may act before all the information is collected	Frequently delegates tasks, thus bringing other professionals into the process: Judge can not act before all of the background information is collected
Primarily states rules and procedures	Elaborately outlines options for enforcing policy
Policy is short and concise	Policy is lengthy and detailed
Focuses on the court's determination of guilt	Focuses on evoking remorse and establishing the wrongfulness of the act
(Not addressed in the French policy→)	Section 6: A sentence pronouncing ineligibility to hold public office, to acquire rights resulting from public elections or to vote regarding public affairs must not be imposed

Implied: youth are small adults	Implied: youth are unique
A distinction is made between juvenile delinquents and youth in need of services	A distinction is made between youth at risk and juvenile delinquents
No references to gender	Specifies that both men and women are to function as lay assessors at each trial

the traditional positivist paradigm that says that policies have logic, procedures and assumptions. He points out that policies change, usually as a function of change in public values (p.76). Fisher (1995, in his discussion of ideological discourse/social choice/values) raises concern, and focuses importance on the role of ideology and fundamental ideals that organize the "accepted social order", as a basis for the legitimate resolution of conflicting judgments (p. 18). He comments on the instrumental impact of larger policy goals on the societal system, and the normative principles and values which underlie this societal order (p.19). Stone (1988) discusses societal values and concepts of "the good society". She refers to goals as "values of community life" (i.e equity, efficiency, security, and liberty) she then goes on to add to this list, autonomy, participation, representation and democracy (p.9) Moore (1995) makes reference in his book to balancing what is fair and just with efficiency and effectiveness. Dawson and Robinson (1963, p. 267) claim, "public policies are the chief output of the political system and are the allocation of values for the society."

Goals

Nagel (1984) wrote, "The field of public administration has long been concerned with means of administering policies more effectively in order to achieve given goals" (p.9). Nagel (1984) also refers to the "economically-oriented goals of effectiveness, efficiency, and equity"

(p.16). Commenting on crime, Nagel notes the trend towards utilizing "government to encourage socially desirable behavior" (p. 16). He defines "policy optimization" as the maximizing of given goals (p. 128). Moore, (1995) writing about crime, cites short-term interest (goals) as being the prevention of additional crime and saving money. Long term interests/goals would be policy efforts that interrupt recidivism, and foster healthy social development.

Fisher (1995) refers to goals as "societal vindication", in which the policy goal(s) is examined for its "instrumental or contributive value" for society (p.18). De Leon (1995) describes goals as "humanistic", referring to those of education, rehabilitation, treatment and prevention, all of which have inherent risk factors and uncertainty. De Leon describes other goals as "scientific" resolutions, such as punishment and confinement, which present no risk factors in their implementation and are therefore "certain" (p.10). Robinson (1963, p 169), states that, "policy consists of the goals (objectives of or commitments made by the political system), the means by which they may be implemented and the consequences of those means". Stone (1988) makes the assumption that all policies involve deliberate attempts to change people's behavior. She outlines the mechanisms for achieving change-creating incentives and penalties (Inducements), mandating rules (Rules), informing and persuading (Facts), stipulating

rights and duties (Rights), and reorganizing authority (Power) (p.10). She describes the traditional model of constructing policy issues by way of Goal/Problem/Solution as being too simplistic, and offers her own "model of political reason" (p.7).

Objectives

Weimar and Vining (1992) refer to means and objectives as "proposed solutions" (p.206), a "set of actions" (p. 228) whose purpose is to achieve goals. De Leon (1997) characterizes "means" as being both variable and limited (p.77). Rochefort and Cobb (1995) characterize objectives as being measurable (p. 15,16). Fisher refers to objectives as having "situational validation" (p. 18) describing their usefulness as being proportional to their relevance to the problem. In Rochefort and Cobb (1995), Stone (1989) indicates that "intentional purposeful actions" are undertaken for the purpose of bringing about a particular result ("intended consequence", pp. 15,16). Means/objectives define consequences. Heineman et al. (1990) describes the steps of implementation as being directives that set rules to establish how policy should be administered and put into operation (p.64). Stone (1988) describes rational decision making as a process by which "courses of action" are selected based on their ability to maximize the attainment of objectives (p.5).

Accountability

Accountability holds someone responsible for the implementation and interpretation of policy. De Leon (1995) refers to this element as the "authority component" (p. 120). It is the identification of someone who is held accountable for implementing the policy or delegating the responsibility for implementing the policy to someone else. Weimar and Vining (1992) identify this authority component as serving the role of implementers, someone that supports the policy and is willing to expend time, energy and resources to put it into effect. In the example of the court system, this authority component might be the judge, in his/her capacity as an instrument of the court. Moore (1995) further describes accountability as accepting responsibility for the consequences of one's actions

4. Values-Goals-Objectives-Accountability

For purposes of the discussion that follows, values, goals, objectives, and accountability are briefly defined. Accountability refers to the person(s) held responsible for the implementation and interpretation of the policy. Values means public values, those values held by a society which underlie societal order. Objectives are proposed solutions, a set of actions whose purpose is to achieve goals/results. Goals pertain to the achievement of socially desirable behavior, having instrumental or

contributive value for society.

This discussion includes references to both similarities and differences between the two policies. Similarities and differences can be defined by the degree to which some element of the policy is emphasized or weighted differently than the other. Similarities can be defined as those elements shared with equal emphasis. Differences are those elements that highlight variations in interpretation, emphasis, or focus.

Values/France

According to Ms. Picot, law is an expression of the fundamental values of a society and must not change on the whims of a few individuals. The law treats juveniles with respect for the fact that every individual is different and displays specific behaviors. Time should be allowed for the minor to analyze what he/she has done, to understand his/her behavior, to take the right measures, to repair what he/she has done. The same measure can not be taken with every minor. A complete study of the minor and his family must be done to see how the youth reacts to the legal system. Though most recent discussions of the juvenile justice system include measures to expedite cases, the alternative argument is for a system where the minor does not see a judge for six months. From this perspective, it is a good thing for a minor to be judged six months later because he/she can

analyze his/her behavior, question himself, and come up with his/her own answers/conclusions to understand what he/she has done. This offers professionals in the system a period to decide on immediate measures to compensate for serious offenses. If the measures are executed, the judge can take that into account and put that into the youth's file as well (interview, Ms. Picot, 5/29/98).

It is felt that the individual who acts against society does it because he/she lacks an appreciation or respect for that society. For the French, the best way to reintegrate that individual back into society is to put him/her in programs that emphasize both culture and the arts.

Values/Germany

Law embodies the values that a society has about what is good and bad, acceptable and not acceptable. Laws are written consciously with enough leeway to maneuver and interpret as a form of checks and balances. "A law plays a very insignificant role in deterring a crime. It gives a society a general message about what is punishable and what is not, what is acceptable to a society and what is not. Therefore, a system of values that a society holds sacred is incorporated into the laws. This is what has a long term effect on the people" (interview, Mr. Eckert, 5/19/98). Changes in society's values affect laws, as does public opinion. Those factors together influence law.

The individual who does not make a contribution by way of work is not considered productive to society. Therefore, vocational training and education are highly valued as ways to reintegrate delinquent youth into society.

Preventive measures are highly favored because they are seen as attempting to take a caring approach. Today, parents are not held responsible for what the child has done. It used to be that the whole family was held responsible (interview, Dr. Goetz, 5/20/98). Youth criminality is seen as a normal passing thing. Everyone agrees that education is the best approach to less serious crimes Even with punishment, there is an attempt to use techniques that have an educational value. These approaches are supported by the political parties and their politicians, who are all in agreement on this point (interview, Dr. Goetz, 5/20/98). Values (as embodied in the policy) are in reality determined by a combination of society's values and those of the legislators.

According to Mr. Ehrhardt, a problem in society is material thinking, that is, the notion that one's self-worth is denoted by increased material wealth. For the past sixteen years (when the CDU took over on a federal level with the election of Helmut Kohl), the motto in Germany had been, "everyone for himself". This has come to mean that the more money you get, regardless of the means, the better, and this attitude is mirrored in

the laws and the way in which crimes are dealt. It is expected that everyone assume responsibility for himself, without providing everyone with the chance for the same upbringing and education. Managers and politicians easily get away with bribes and embezzlement, therefore many youths can't see what is so bad about stealing a couple of hundred marks. The others get away with millions, or, if they are taken to court, in many cases, they receive a lighter sentence (because of "deals" to save time, i.e. pleas bargaining) though, objectively, the crimes of the managers and politicians are more serious than the youth. Compensation in the form of money is a common consequence. The Länder has set up a fund to loan the perpetrator money to pay the victim if they do not have the money for restitution (interview, Mr. Ehrhardt, 5/22/98).

In the German juvenile justice system, the thread of consistency when discussing juvenile justice issues is the desire to teach the youth a lesson. The values of society are changing. Youth have no hold in family and institutions that used to be there for them. Professionals disagree on how to change this situation and/or what to change (interview, Dr. Goetz, 5/20/98)

An umbrella organization that is composed of child protection agencies claim that children act out due to a lack of communication with parents which causes them to feel isolated from their parents. This

disengagement, the organization claims, is partly the cause for the increasing violence among children and young people (German News, de-news@mathematik.uni-ulm.de, 4/30/99).

How the policies differ

The French juvenile justice policy stresses the value of culture, arts and privacy for both the victim and the perpetrator. The German policy conveys a moralistic tone that is reinforced throughout the policy. Terms such as correction, punishment, work ethic and righteousness are referred to repeatedly.

Goals/France

The attainment of justice is paramount to any discussion of goals set for the juvenile justice system. Justice, for the French, guarantees equality for all citizens and must proceed safely and serenely. Another primary goal is the prevention of subsequent crime. From the perspective of the DPJJ (Department of Youth Judicial Protection), juvenile crime can not be prevented before the first offense, because it is after the first offense that the youth enters the system (interview, Mr. Velu, 5/28/98). Therefore, the primary aim of the French juvenile justice system is the prevention of subsequent offenses. Just recently, 1998 to the present, the local governments [Mayor's council] in Lyon, France have begun coordinating

efforts with the schools as a "preventive" intervention with regards to the problem of juvenile crime. For the most part, the citizenry understand that education (rehabilitation) is the goal of juvenile justice rather than punishment. "If we abandon the idea that a child can be educated, we are giving up on the future of our society" (interview, Ms. Boissinot, 9/14/98). According to Ms. Boissinot, the dominant features of the juvenile justice policy are first of all prevention, that is to say, doing something before any offense is committed, even if the system is designed to take action as a result of the offense. The system always acts to find educational (incorporating learning plus upbringing) solutions. The repressive (punitive) solution is implemented only if everything has been done on the educational level. The goal of the legislation is to allow every youth to reach adulthood without incurring too much damage. The greatest principle embodied in the legislation is to help youth find their place in society

Goals/Germany

Education is also a fundamental principle underlying the German youth law system. The goal of the German juvenile justice system is to resocialize and reintegrate the individual back into society. Measures to accomplish this are thought by the Germans, to best be done outside of criminal law, in the realm of social services. The goal of social services is to

help the youth realize what they have done, why, and how they can help themselves by providing access to services where help is available (interview, Ms. Haas, 5/19/98). However, there is a discrepancy between the goal and what is actually achieved. The court's role is to establish that the act is wrong. Secondarily, they try to prevent it from happening again. Finally, social workers offer referrals to youth for places that make help available.

How the policies differ

The French policy emphasizes as a goal, justice defined as equality for all citizens. The policy is written with the intention of helping youth reach adulthood without incurring physical or psychological damage. In addition, the French juvenile justice policy states as their goals, confidentiality and rehabilitation The German policy defines the court's goal to establish that the act is wrong, and to make help available. The German policy is lengthier than the French policy and generally goes into greater detail, but this is particularly true when outlining the goals that the German policy is designed to achieve. The descriptors used in the German policy are frequently more elaborate. Goals imbedded in the German policy make reference to citizenship, developing maturity, establishing the truth, moral and mental development, protection and security of the public and youth, and reformation.

Objectives/France

The objectives of the French juvenile justice policy are summarized in the following statements:

1. (Re) construction of his/her personality. The idea is that the youth did something wrong during a special period of his/her life, when the personality was not fully constructed. Society is ready to take this into account. There exists the belief that changes can occur in a minor's behavior.
2. Working towards a time when all youths have a comprehension, understanding and appreciation of the law.
3. Making the minor aware of what he has done, help him repair his mistakes (even if only in a symbolic way), reform himself and reintegrate into society.

One of the Directors from the Department of Youth Judicial Protection in Lyon (interview, Mr. Velu, 5/28/98) commented on the French system and said, "The more we insist on (enforcing) the law, the less subsequent offenses there will be (committed). At least the youths won't be able to take advantage of 'complete impunity'. In the past, a lot of misdemeanors used to be shelved. Now, both a judiciary and educational follow-up for cases are incorporated into the juvenile justice system. The

judiciary and the educational component are complementary. The public prosecutor's department reminds the delinquent youth of the law and the educational system deals with the consequences of the criminal act. Prosecutors either put the delinquent in contact with the victims so that they get direct compensation, or initiate an educational action so that youth can come to terms with the criminal act in order to help the youth (re) construct his or her personality. The advantage of this system is that all youth have a reference to the law, which is extremely important. All the youth face an educational sentence for their offenses and do useful things to redress the misdemeanor in question. This follow-up is different from the one that initiates the judicial process, and thus, brings the youth to court. Going to court is a response to more serious matters.

Another objective of the French system is to convey citizenship by teaching youth about two notions of law, those of rights (i.e. legalized rights) and duties (in terms of social responsibility as defined by John Stuart Mill). Typically, youth view law only as duties or claim they only have rights rather than seeing how the two work in conjunction with each other.

Objectives/Germany

Objectives of the German Youth Law focus on consequences, behavioral change, education, and the impact of stigma. Consequences

focus on trying to get youth to make up for what they did wrong. There is an effort to change attitudes and behavior. Even in confinement, there is an effort to provide the youth with services such as education and vocational training. From the German perspective, the label of "criminal" deters someone from committing a crime in combination with the cumulative affect of going to court or going through the system. When an action becomes a crime, it makes people think about their behavior in a general way. Over time, this influences the attitude of a whole society (interview, Mr. Eckert, 5/19/98).

How the policies differ

The objectives embedded in the French policy place a unique emphasis on conveying citizenship. Citizenship is promoted when instilling in delinquent youth a comprehension, understanding and appreciation of the law. Assistance, supervision, and the use of methods of rehabilitation deemed appropriate given the minor's personality also are stressed as objectives of the French policy. The moralistic tone of the German policy becomes evident when passages relating to objectives include statements such as "stir or instill as sense of honor", "lead a responsibility-minded life", and "instill as willingness to make assertions as to future conduct". The German policy refers to vocational training as an objective as well as the prevention of endangerment of the minor.

Accountability/France

Accountability within the juvenile justice systems is two-fold, by the judge on behalf of the court for implementation and interpretation, by the offenders to make amends for crimes perpetrated on their victims. A new proposal would hold parents responsible for the actions of their children The thought behind this is that the reasons that children commit crimes is that they are not taught properly at home If the proposal were adopted, the parents would be put into jail or made to pay fines/restitution.

The judge is ultimately responsible for accountability. He is the only one who can interpret the laws France may be the only country in Europe where judges both prepare cases for judgment and judge them. The dual function of judges in France is evidence of their closed system.

Working parallel to the newly organized judicial services is the private sector. France has a long tradition of private social institutions, which already have their own structures, most notably religious communities. A considerable number among them created centers for children. The Bon Pasteur for girls is still well known in France. These institutions continue to take children in conjunction with the State (interview, Ms. Boissinot, 9/14/98). Today, the private social sector still has a very large number of institutions and personnel. This is opposite from

Germany, which does not have as many facilities. In Germany, however, funds are sought from sponsors within the private sector and among private individuals. The German public likes this because they can see the results of those efforts more quickly and it is not a burden on public funds (interview, Mr. Ehrhardt, 5/22/98).

Accountability/Germany

The accountability/responsibility for the policy is with the professionals, educational specialists, legal specialists etc. (interview, Ms. Haas, 5/19/98) It is critical for the proper functioning of the court that the judge upholds this responsibility by involving a broad spectrum of professionals in the legal process. The interpretation of the laws is done in the court by the judge. This is a system of checks and balances, as people have the option of appealing to a higher court (interview, Mr. Eckert, 5/19/98) The role of the judges is to interpret and carry out the law.

The schools become the parent more and more as they assume responsibility for raising the child. Accountability rests with the police officers because they determine what goes on the report (i.e. what crime the person committed) then, of course, the prosecutor, and ultimately the court (i.e. the judge) (interview, Mr. Ehrhardt, 5/22/98).

There are not nearly as many pressure groups in Germany as there are, for example, in the US (or France). The explanation for this is that the

elected officials feel more responsibility towards their party than their constituency. Therefore, the individual citizen feels that he/she does not have much influence upon the actions of the elected officials. Threats against re-election should the politicians fail to do what the citizens desire, do not have much affect. The general consensus is that once people are elected to office, they distance themselves from their constituency As a result, there is not much incentive to "write to your congressman/woman" (personal communication, Michaela Strick, 8/28/98).

The sentiment is somewhat different on the municipal level. There, citizens can attend council meetings if they wish to advocate for an issue. Usually concerned citizens or a spontaneously formed group will attend these meetings Quite often, these efforts produce few results, because the city council or mayor will make their decisions regardless of public opinion. Judges are not influenced by public opinion, as are the legislators. The opinion of the Governor towards youth crime is considered to be important and influential by people working within the juvenile justice system (personal communication, Michaela Strick, 8/28/98, and Ms. Haas 5/19/98).

How the policies differ

The German juvenile justice policy is detailed, lengthy and specific while the French policy is simple and direct. The French policy makes

frequent reference to the judge and his/her role. In the German policy, references are made to a variety of individuals who may potentially be brought into the court proceedings because of their knowledge and expertise in an area pertinent to a case. The German policy stresses the importance of including both men and women in the juvenile justice process, while the French policy does not.

Summary

The open and closed system framework is a theoretical model. Viewed as a continuum, probably no one country actually meets all of the characteristics of open or closed systems. More typically, most countries fit somewhere between the two extremes. The open and closed model provides a framework by which to measure and examine various characteristics of a country. From this comparison, contrasts emerge which reveal factors that influence the development of policy and the policy-making environment.

At a conference on comparative law, judges from all European countries were given the same case to resolve. The final judgments were not that different. However, the German system was the slowest. The French system was much faster because the French judge had ultimate authority. The French judge does not wait for all of the background

information on a juvenile as the German judge does (interview, Mr. Eckert, 5/19/98). As is characteristic of an open system, the German system generates input from a variety of sources, many of which are outside of the legal system. The French system, closed in nature, relies more heavily on the judge's final decision. With limited input from the environment, the French system has fewer "checks and balances" with the focus being primarily on the "ends".

In Germany, within the context of social systems, there is a skepticism that the individual will do what is right without pressure from the system. Therefore, there are social structures that insure the individual good. Themes that emerge are self-promotion, opportunism, and materialism. The German system focuses on the "means". The legal system is socially constructed. Systems are paramount. The French system places more responsibility on individuals for their behavior. Embedded in the French policy is a theme that focuses on the psychology of the individual, encourages introspection, and places the responsibility for self-development and personal growth on the individual.

In France, citizenship is defined through the State, therefore State intervention is considered to be good. In Germany, there is a devaluation of State responsibility for justice. The distinction regarding how people relate to the role of law might be attributed to France's tendency to be more

centralized than Germany, whose government is largely decentralized.

A summary of the content analysis of the two juvenile justice policies appears in Table 4 (pages 171a,b). Table four illustrates how values, goals, objectives and accountability differ between the French and German juvenile justice policies. There are similarities: examples of each element that occur in both policies. Variations occur between the policies such as in the case of the German policy prevention is discussed within the context of a value, while in the French policy prevention is regarded as a goal for working with youthful offenders. Constrasts will occur when a concept is enbodied in one policy but not necessarily in the other. For example, references to "righteousness" (in the context of a value) are repeated in several places in the German policy. However, righteousness is not referred to in the French policy.

5. Reforms/Amendments/Debates

One or more of the following catalysts can initiate legislative reforms. They can result from public reaction to a general rise in criminality (as perceived by personal experience or by media coverage) or in response to highly publicized crime. Reforms may result due to a change in the adult penal code that then requires a revision of the juvenile code so that the two are in sync. Reforms may occur as a response to modernization, e.g.

Table 4

Elements of the French and German juvenile justice policies

Ordinance of 1945 (France)	Youth Court Law (Germany)
Values	Values
Education (includes learning and upbringing)	Correction
Culture, arts	Punishment
Privacy	Education
	Rehabilitation
	Work ethic
	Prevention
	Righteousness
Goals	Goals
Prevention	Citizenship
Rehabilitation	Participation by men & women
a) Social insertion of the youth	Develop maturity
b) Trouble caused by the violation will cease	Determination of the truth
Confidentiality	Moral and mental development
	Protection & security of the public and the youth
	Reformation
Objectives	Objectives
Assistance	Properly evaluate the youth
Supervision	
Properly evaluate youth (though the judge can negate)	Protect the rights of the youth
Protect the rights of the youth	Prevent endangerment of the minor
Avoid stigma	Process the case in a timely fashion
Hasten process	Reinforce wrongfulness of act (remorse)
Establishment of guilt	Restitution to victim
Restitution: Assistance or compensation to the victim	Performing community interest work
Perform community service	Stir or instill a sense of honor
Methods of rehabilitation are based on minor's personality	Vocational training
Inclusive of structured, detailed procedures	Assist the youth's integration into society
Evince the truth	Lead a responsibility-minded life
	Instill a willingness to make assurances as to future conduct

(France, cont.)

Accountability
Reference to individuals in the policy itself: 26
(primarily, the judge)

References to various institutions in the policy itself: 4

(Germany, cont.)

Accountability
Reference to individuals in the policy itself: 18
(police, prosecutors, mediators, others)

References to various institutions in the policy itself: 5

Specifically encourages participation by men and women

computer crimes (interview, Mr. Ehrhardt, 5/22/98). Lastly, reforms may be the result of a basic philosophical shift in the current theoretical approach to delinquency. "Innovations come in cycles" (interview, Ms Haas, 5/19/98).

a. Revolutions and incremental change

Thomas S Kuhn (1996, 3rd edition) in his book, "The Structure of Scientific Revolutions" describes times of great social change as "revolutions" which present scientists with a crisis that can not be solved by an existing paradigm. "Paradigm" is defined by Kuhn as "the entire constellation of beliefs, values, techniques, and so on shared by the members of a given community of practitioners" (1996, p.175). The emergence of new theory leads to the development of paradigms that gain support by being a "better instrument for discovering and solving puzzles...(and by being) a better representation of what nature is really like" (Kuhn, 1996, p.206) New paradigms cause terms, concepts and information to fall into new relationships with one another. These "revolutions" challenge current thinking and are controversial, but eventually gain the support of the scientific community. These paradigm "shifts" resolve a crisis by proposing revolutionary reforms that reconstruct prior theory, leading to the rejection of one scientific theory in favor of

another. This does not mean that every aspect of a problem is solved, but that the newly adopted theory possesses more problem-solving ability than its competitors.

Following a revolution of "sweeping social change" there are policy policy developments, or changes, which manifest in the form of amendments and/or reforms. These amendments are considered to be incremental because they only marginally differ from the existing policies. Incrementalism (also known as rational comprehensive decision making) reflects a society's commitment to gradual change. Incrementalism is a conservative and practical approach to policy development that attempts to solve a problem without drastically altering existing processes and institutions. New challenges are met slowly and progressively. These policies are almost always more politically expedient, as they simplify the policy making process.

For Germany, these revolutions in the realm of juvenile justice policy development occurred in 1953 (18 to 21 year olds could be tried under youth law) and 1990 (expanded provisions for diversions, victim/offender mediation). "Social changes in society (revolutions) will be reflected eventually in the laws, but there is a time lag." (interview, Dr. Peter, May 20,1998)

In France, the "revolutions" which professionals in the system will

speak of proudly occurred in 1945, when the original policy was created (post World War II), with further reference to 1958 (coinciding with the writing and acceptance of the French constitution of the fifth republic). The ordinance of December 1958 placed the domain of "Assistance Educative" (educational aid) or the care of children in danger (the equivalent of our court ordered social services intervention) under the jurisdiction of children's judges. "In my opinion, they (policies) are effective until important changes occur in a society At that point the legislation has to be revised (revolutions)." (interview, Ms. Picot, 5/29/1998). Commenting on the original policy of 1945, a woman who served as a French lawyer and is currently working at the Ministry of Justice, said, "At the time, the text was completely revolutionary Jurists criticized the policy as well because it went completely against their traditional view of the matter. For one, it favored rehabilitation over penal sanctions, which was usually imprisonment at the time. Next, it created judges specifically for children who worked only in the penal domain " (interview, Ms. Boissinot, 9/14/1998). For purposes of this study, reforms of 1970 and 1996 are examples of revolutions in juvenile justice policy. In 1970, the general principles of French penal law were reconfirmed (as they were in 1958 by the French constitution), but more importantly for the juvenile justice system, paternal authority changed to parental authority. In 1996, the

increase in juvenile crime became of such proportion that it was highlighted in the press and expressed by public outcry. The legislation that followed was in response to this increase in crime and expression of concern by the public. The resulting legislation impacted the roles of actors and the structure of the system. The role of parents increased, as did the rights of minors, but this was not visible in terms of adopted reforms until 1996.

France

In essence, the ordinance of 1945 established the principle of reduced responsibility for minors. Specialized jurisdictions for minors favored protection, assistance, resocialization and education in dealing with delinquent youth rather than imposing legal sanctions. Legal penalties could, however, still be imposed when deemed appropriate by the courts. Since 1945, the juvenile justice system has been based on a close collaboration between the courts and the educational system. Actions taken by the courts are enacted with an understanding of the youth's personality.

The Ordinance of December 23, 1958 (and later, the law of July 17, 1970) reconfirmed the general principles of French juvenile penal law. For example, children aged 13 were considered to be not responsible for their crimes, while those aged 18 were considered to be relatively responsible. Education was valued over punitive measures (though whether this

principle has been applied consistently is open to debate). Educational assistance was intended to protect a minor in a dangerous situation. A situation is considered to be dangerous when it poses a threat to the youth's health, security, or education. The specialization of jurisdictions was established, meaning that the care of children in danger (i.e. in need of social services) was placed under the jurisdiction of children's judges and institutions, public and private (Shoemaker, 1996, p.111). It was thought that whenever possible, the minor should remain in his or her own living environment. The optimal situation was one in which the child's family agreed with the measures being considered by the court.

In the 1970's, the last locked-door center closed in France. Paternal authority was replaced with parental authority. This meant that both parents had the same rights and both parents would be taken into consideration with regards to decision making involving the family. It was decided that this approach would be in the child's best interest in order to guarantee his or her protection and positive development (law of June 4, 1970). If the interests of the child were threatened while under parental authority, the French system would assume responsibility for the child under one of the two different authorities (i.e. the administrative authority or the judicial authority). The administrative component addresses concerns of prevention and is carried out in agreement with the parents.

The judicial component deals with issues of protection (e.g in situations of danger or delinquency). In this second example, the child's right to an attorney is guaranteed.

The age of majority was reduced to age 18 in 1974. Judicial actions appropriate for this age group (also known as youth care measures), were extended to support the positive development of youth The provisions in place prior to 1974 governing educational (meaning, in the French sense, both education and upbringing) measures for young adults were, in practice, rarely enforced. However, the Decree of February 18, 1975 provided for the possibility (under Article 16 of the Order of February 2, 1945) of applying youth care measures to 18 to 21 year olds who were of full age under civil law. This was done only on a voluntary basis (at the specific request of the offender) and for a limited period of time. During the 1970's, communities in France responded by taking specific crime prevention initiatives. These initiatives were in the form of partnerships between municipalities, police, associations, and social workers, designed to confront security issues from a neighborhood base. These projects were financed jointly by the city and the state.

By the 1980's, earlier initiatives to develop community partnerships lost momentum due to a lack of significant involvement between the police and judicial system. The programs created were essentially community

outreach activities, which were easily implemented and rallied public support. With the 1980's came the development of community councils for the prevention of delinquency as well as councils at the level of the *departement*. It was at this level that concrete actions were defined. They had some effect, but more in the area of prevention than with actual juvenile delinquency.

The reforms of December 30, 1987 and July 1989 made conditions for detention pending trial (provisional detention) more difficult. Provisional detention was made illegal (1989) for a minor under 16 with the exception of minors 13-16, which could only be detained for crimes. For minor offenses, provisional detention was only possible starting at 16. The D.P.J.J. (Department of Youth Judicial Protection) was established in 1988 by an intercabinet decree. It was created to organize the agency's external services. Its administrative structure was highly influenced by a move towards decentralization. Evidence of this was the establishment of district (regional) and local headquarters. The mission of the D.P.J.J. is to guarantee the education of youth's subject to judicial decisions.

The reforms of 1990 sought to greatly impact the roles of actors within the juvenile justice system, and the structure of the system itself. These reforms had as their primary goal the strengthening of specialization. Theoretically, it can be criticized that without a specialization in adolescent

development and behavior, the juvenile becomes more vulnerable within the system, as happens when one is using judgment over both juvenile and adult cases. These proposed reforms attempted to insure that the prosecution of juvenile delinquents would be characterized by a strong individualism that prohibited, at least partially, the rigidity of the system created by the Ordinance of 1945. For political reasons, this 1990 draft has not been enacted (Shoemaker, 1996; 122).

Proposed Reforms of 1990

- The role of the public prosecutors office was redefined to focus more attention on prevention.
- The juvenile judge became the only judge competent with respect to correctional matters and does not share that domain with the magistrate to conduct the investigation of juvenile matters.
- The sharing of jurisdiction among the juvenile judge, the court of judgment, and the juvenile court was realigned, and thus a new division of labor was approved.
- The examining magistrate lost power to direct the proceedings. This made the system less flexible, but offers the advantage of judicial soundness.
- The juvenile court would judge henceforth all minor criminals over 16 years old.

- The French juvenile "court of assizes" (circuit court) was abolished.

The role of the parents or guardians to exercise parental authority was increased. The notion of returning the child to the family is supreme. Generally speaking, the French juvenile justice system does not work as closely with families as does the German system, which does much more early intervention with youth and their families, especially in cases of minor offenses or first-time offenders. This might be attributed to Germany being a collective society and therefore subject to a heightened sense of social responsibility, while France is an individualistic society and puts more responsibility on individuals for their behaviors.

Other sanctions outlined in the reforms of 1990 addressed judicial procedures regarding the rights of minors. There was an in increase the rights of the defense of the minor (e.g. the right to have an attorney present at all stages of the hearing). Delays in the judicial system were addressed in the reform measures. Penalties could now be pronounced on a minor (13 years old) in exceptional cases, but they would have to be justified. Only punishments set forth by juvenile law would be applicable to minors. If the text of the penal law introduced a new punishment, it would not be applicable to minors unless otherwise clearly expressed in the text. The juvenile court could not suspend rights and minors could not lose rights, so as not to compromise the minor's chance to be reinserted into society upon

reaching the age of majority. Incarceration time was limited (ceilings were set), and the imprisonment of 16 year old minors was prohibited with respect to correctional matters (Shoemaker 1996; 122).

Educational sanctions expanded to include a new measure: judicial protection (art. 56). The criteria used in 1945 to decide between institutional placement and societal release (on conditions) was deemed no longer relevant. Juvenile courts were allowed to order protective measures, assistance, surveillance, reparation, or education, all of which strengthen the judicial framework protecting minors. This measure made the application both flexible and effective. Putting the minor under judicial protection assured the continuity of the educational process because the measure may be modified at any time the minor's behavior changes (Shoemaker, 1996; 122).

In France, there are no special provisions as regards sentencing for young adults, other than the possibility of extending certain educational measures under the Ordinance of February 2, 1945. Reduced sentences only affect juveniles up to the age of 18. Juveniles over 13 may receive criminal sentences, but these are subject to reduction on the grounds of minority, unless in the case of 16 to 18 year olds, the courts on specific grounds (Article 2 of the Ordinance of February 2, 1945) refuse this. The 1990 draft reform of the 1945 Ordinance recommended a significant

reduction of custodial penalties, including detention pending trial, but only in respect of those under 18. Judicial observers predict that in the future, imprisonment for 13 to 16 year olds will be limited to a maximum of five years for serious crimes (including certain types of physical injury offenses, drug trafficking and aggravated theft). For 16 to 18 year olds, this will be limited to a maximum of three years (for less serious offenses) or ten years (for serious crimes). Adult sentences are halved for 13 to 16 year olds as a result of the reduction on the grounds of minority. A current bill dating from 1990 seeks to restrict detention pending trial for 16 to 18 year olds even further.

The government decided in 1991 to keep the dual role of children's judges (for both children in danger and delinquents) and increase their number. "Les Maisons de la Justice et du droit" (Community Justice Centers) were founded. The centers were placed in vulnerable neighborhoods, giving members of those communities a place to address their feelings of insecurity. The proximity of these centers to vulnerable neighborhoods brought justice closer to the citizens. The "Maisons" were decentralized, contrary to the court system (interview, Mr. Velu, 5/28/98). The centers address delinquent acts involving juvenile and petty crime in a timely manner. As a result of local involvement, there is a wide diversity in approaches to crime that is reflective of the individual communities. These

centers benefit the public by providing,

- Citizens with access to legal information to better understand their rights
- The option of consulting an attorney
- the means by which to build local networks
- heightened accessibility to the legal system
- real-time processing
- mediation services to settle disputes
- a way to address insecurity in the cities

There was no real debate regarding juvenile justice in 1992. By 1993, it became obvious that the problem of delinquency was larger than originally thought A policy was developed which introduced a system whereby minors repaid society in some way for their crimes, either directly to the victim, giving money when he or she had it, or doing something concrete such as writing a letter of apology (diversions). There were also indirect means of repayment. For example, a minor who committed prank phone calls may be asked to spend a day in the call center of the fire department in order to show him or her the importance of the telephone. The indirect payment was often done with a group of minors who committed the same crime or a similar one. The value of working together

was taught in this way as well (interview, Ms. Boissinot, 9/14/98).

1995 was the year of the 50th anniversary of the Ordinance of 1945 At this time, the principle supporting rehabilitation over punishment came into question, as did debates concerning the rapidity of the judgment of minors and the reestablishment of locked centers.

The positive effects of the "Les Maisons de la Justice et du Droit" founded in 1991 were being felt by the community. They are meeting their goal of reducing the gap between the justice system and the citizens. Central to their success has been the mediation/compensation efforts. The establishment of similar institutions in Germany has been discussed (Haus des Jugendrechts). The German equivalent of the French mediation/compensation (i.e. victim/offender mediation) has had a longer and more utilized history in Germany.

Legislative reforms of 1996 accelerated justice for the minor. There had been a large gap in time between when the anti-social act was committed and the legal response. This created a need for "real-time processing" (i.e. cases needed to be referred to the court in a more timely manner).

The 1996 legislation allowed for a disassociation of two processes that were formerly joined, a judge's decision regarding a case and the collection of background information. The reform of 1996 allows for the

acceleration of a trial by allowing a disassociation of the declaration of guilt or innocence and the sentence pronounced. The victim can receive compensation sooner The minor can be sent back to a higher court at the end of the investigation into their background and rehabilitative measures can then be taken. These procedures are used heavily according to court statistics.

The 1996 legislation allows for repeat offenders to have a trial date set for one month after meeting with a judge in his office. This expedites the processing of scheduling a minor for the next available court date, which is typically one to three months later. The expedited trial date is rarely used because its use is guided by very specific circumstances and is procedurally difficult to employ. Also, the general attitude of court personnel is that three to six months is not that long to wait to go to trial when compared to the totality of trials processed through French courts.

"Reinforced Education Confinement Groups" were established in 1996 (e.g., centers of coordination for institutions and services in both the public and private sectors). These centers provide the quickest access to the maximum number of placement options for minors, even if only for a few days to allow the volatile situation at home to subside. The groups were smaller structures for rehabilitation where the most difficult minors could reside (i.e. those who were repeat offenders or had been in prison).

The groups were intended to introduce youth to a different mentality allowing for their placement back into traditional centers. These groups have their place in a larger continuum of services, which includes open centers and foster family placements. Other legislative debates of 1996 addressed a proposal to reestablish closed centers for juvenile delinquents, but this was rejected.

In 1997, the change of government (marked by the election of Jacques Chirac) sparked discussions about juvenile delinquents. The public felt less secure. Reforms were discussed to make the objectives and content of the ordinance harsher. The role of children's judges reentered debate. The issue under debate concerned whether judges should deal with both juvenile delinquents and children in danger (meaning child welfare cases). The conflict arose as to whether the judge's responsibilities to children in danger detract from their responsibilities to juvenile delinquents. Other debates focused on parental responsibility and pre-trial incarceration for minors. Note also that children's judges also deal with two smaller populations: young widowed adults and welfare tracking. There was a government decision to provide tutoring for children whose mother tongue was not French, as well as an amendment that would verify that government aid was received and used to benefit the minor. In addition, the government also decided to renovate juvenile detention facilities.

In 1998, a debate between the Ministry of Justice and the Ministry of the Interior ensued, regarding the usefulness of the Ordinance of February 2, 1945 given the increase in juvenile delinquency. Ultimately, the arguments made by the Ministry of Justice to keep the Ordinance largely unchanged prevailed. It was felt that the Ordinance, as it is written, allows the Ministry to accomplish everything that it has to, given the situations with which it is faced. Specifically, the Ordinance favors rehabilitative measures, while at the same time allows for the pronouncement of sentences to prison when dealing with repeat offenders or when the facts of the case are very serious. The only exception is for children under thirteen, who can not be sent to prison in any situation. From ages thirteen to sixteen, sentences are cut in half, and what would normally be a life imprisonment is reduced to imprisonment to the age of twenty. For minors age sixteen to eighteen, prison terms may be cut in half, but it is not obligatory. If the court judges that the personality of a minor allows for him/her to be judged as an adult, an adult prison sentence can be pronounced. The Internal Security Council is composed of representatives of several ministries: the Ministries of Justice, and of the Interior, of Employment and Solidarity, of Cities, of the Gendarmerie, and of National Education. They agreed with the Ministry of Justice, saying that the Ordinance of 1945 meets the current needs sufficiently and does not need

to be reformed.

The Internal Security Council decided on a number of concrete actions to aid and support parents experiencing difficulties, most notably, tutoring for children whose mother tongue is not French. The council also asked that the parents of juvenile delinquents be required to accompany their children to court. This last point was already in effect, but not enforced. Finally the council, with regard to financial aid to families, required judges to verify that aid received by the families is used for the benefit of the minor. This means that the money is given to a third party, who then sits down with the parents and establish a budget. A decision was made to renovate juvenile detention facilities. When minors are imprisoned, they are housed in the same establishments used for adults, but the youths are kept in a separate area. They follow a program that includes a strong educational component, as well as sports and cultural activities, and psychological services as needed. Problems arose due to the fact that these facilities were few in number and minors were at a distance from their families. The halfway houses which tried to bridge the gap between prison and home had a problem with frequency of meetings. As a consequence, the number and budgets of those facilities have been increased to allow for more activities, and also to allow for individual guards to be assigned to specific areas rather than doing rounds constantly for the entire facility.

In 1998, the government wished that the legislative dispositions, which adapt notably to the Ordinance of 1945, be examined by Parliament before the end of the month (i.e. June 1998, as expressed by M. Jospin). The new legislation of June 1998 gave protection to minors who were victims of sexual harassment. A new punishment was instituted, referred to as "social-judicial", which included follow-up for the aggressor that involved returning to court periodically to see a doctor, usually a psychiatrist, on a regular basis (i.e. adult laws were extended to minors). On July 15, 1998, it was decided that warnings intended for minors should no longer be sent by mail. The procureur (district attorney) has the choice, when a case comes across his/her desk, to pursue it or dismiss it even before it goes to trial. The verbal warning would be given to a child in-office by a procureur or his/her appointee. The public were recruited to become the Procureur's delegates, who would review the facts of each case with the minor and their parents, remind them of their obligation to the law, which for the parents, is to be aware of their children's activities. These measures were intended to reduce the gap between justice and the citizens, and streamline the system by speeding up litigation.

Today, the minor's entire environment is taken into consideration, including his or her peers, extended family, and community, when a juvenile comes before a juvenile court judge. The idea of removing a minor

from the environment where the anti-social acts are committed is being explored. This would allow professionals to work with the home environment before the youth returns. A new proposal would increase parental accountability for the actions of their children. In this measure, parents would have to pay fines/restitution or be put in jail to account for their children's wrongdoing. Prefects (a representative of the State for a department) work with district attorneys and rectors of school districts to establish their own policies for dealing with juvenile delinquency. Local safety councils have been established to include the mayor and his peers, private establishments, representatives of the police and the justice system, and gendarmerie. These councils try to form a clear picture of juvenile delinquency in their communities and try to find solutions in the form of concrete actions. They find situations where the youth can work on reparative projects. They do public relations to get communities to accept youth doing these types of activities. Local security councils have been created as well as councils for the prevention of delinquency. Smaller residential facilities for youth have been created. City policies for youths address the need for town councils to develop summer intervention programs which address issues of delinquency (including grants and contractual services) and local social programs for youth. A lack of judges make the work of intermediaries in the system (i.e. the police, gendarmeries

and rehabilitation centers that take in minors) more difficult by increasing their workload. A decision was made to increase the number of judges as well as the number of magistrates in the offices of the Procureur de la Republique (district attorney's office).

Problems of contemporary society with regards to the juvenile justice system have been attributed to several factors:

- The indifference of the people to legal structures
- Over-urbanization
- A lack of care by the system of the victim
- A system that is too slow
- A time gap which is still too large between the time when the crime was committed and when the youth comes to trial

Current debates include those by the public asking for restitution for the victim and fast prosecution of the offender. In contrast to this, some of the lawyers and other involved in the judicial system are of the opinion that the time gap between the time of the offense and prosecution is favorable. The gap in time allows the offender time to analyze his or her behavior and answer with regards to what he has done (interview, Mr. Velu, 5/28/98). The DPJJ must work closely with local policies and form community

partnerships. Internal changes also are needed in terms of developing partnerships between ministries. Educational initiatives have been delegated to the local level. The DPJJ must also work to maximize the use of community resources. When appropriate, the DPJJ also partners with the French public education system, the Department of Social Affairs, and Youth and Sports Department at the local level. These efforts are motivated by a desire to eliminate exclusion, marginality, and financial concerns.

Germany

The reforms of 1933 were influenced by the Nazi regime; rehabilitation was replaced with retribution. Reformers were allowed to introduce proposals by way of legislative commissions and task forces as long as they did not conflict with National Socialist ideology. Several decrees and administrative regulations were legislated until 1941. The Youth Court Law of 1943 (Reichsjugendgerichtsgesetz) put in place several noteworthy sanctions.

1. Non-criminal sanctions were amended by a new category of quasi-punitive measures for example, juvenile detention up to four weeks.
2. Youth imprisonment – Not less than three months and not more than ten years.

3. Suspended sentences were abolished completely.
4. Youth imprisonment of an undetermined length of time could be imposed between nine months and four years. The actual length depended on the educational needs of the juvenile within the youth prison setting
5. Juveniles between 14 and 18 years of age could be treated and sanctioned like adults

a. This included subjecting them to all adult criminal penalties including castration and the death penalty (Albrecht 1994, p.4).

After WWII (1945), the Nazi elements were eliminated from the Youth Court Law. With regards to Youth Court Law, "Hitlerzeit" (Hitler time) might be viewed as an aberrant period in German history when compared to other influences and trends overtime

In 1951, probation officers were used to provide assistance to juvenile courts and their clients on a trial basis with officers hired through private sources (Kerner and Weitekamp 1984, p 155). By 1954, the first German probation officer started work.

In contrast to prior practice, German juvenile law introduced in 1953 developed quite differently. Section 105 (1) 1 JGG provides for the application of juvenile criminal law to 18 to 21 year-old adults, if "an

overall assessment of the offender's personality, taking into account environmental conditions, reveals that at the time of the offense his moral and intellectual development was that of a juvenile". Juvenile criminal law is also applied if the offense is to be regarded as a "juvenile misconduct" according to its nature, circumstances or motives (Section 105 (1) 2 JGG.) Procedurally, young adults always are dealt with by the juvenile courts, even if adult criminal law is applied (see Section 108 (1) JGG). In that case, particular leniency is provided for by comparison with over 21 year olds (for example, fixed-term instead of life imprisonment, or preventive detention for particularly dangerous or habitual criminals, (see Section 106 JGG; Duenkel, 1991; 83). In addition,

1. "Semi adults" were now called adolescents
2. Youth Court Law included persons between the ages of 18 to 21
3. Youth imprisonment was renamed youth penalty and its duration was redefined to not less than six months and not more than five years (there are exceptions).
4. Suspensions of sentences were combined with a probation supervision order

In the 1960's, a youth's environment and social history were taken

into consideration when judicial decisions were made. Young adults convicted under juvenile law more frequently were sentenced to youth custody without suspension. If we consider these categories of offenses in relation to the length of custodial sentence, substantially more young adults were sentenced to short terms of up to one year under adult criminal law, which provides for custodial sentences of less than six months. In German juvenile criminal law, under section 18, sub-section 1 JGG, the minimum sentence is fixed at six months. For adults (though since the reform of 1969, only in exceptional cases, see Article 47 of the Criminal Code) sentences of between one and six months are also possible (Duenkel 1991; 91).

By 1986 (with the exception of convictions of robbery and homicide) under juvenile law, convicted young adults are at a higher risk of receiving a custodial sentence, or receiving a longer sentence, than if they are dealt with under adult criminal law. Even with only one previous conviction, 14 to 21 year olds run a greater risk of being detained pending trial and receiving a custodial sentence than over 21-year-olds. Among some, this was viewed as discrimination.

There is a tendency to sentence young adults more heavily under juvenile criminal law. Proposals have been made to reform the law in order to limit the conditions for sentencing a youth to the custody of the court. It

has also been proposed that the concept of "harmful tendencies" as a justification be abandoned. The question of imposing sanctions with greater severity on the grounds of previous offenses was brought into debate. This practice was abandoned in adult criminal law in 1986 (Duenkel, 1991; 92).

The 1990 reform both expanded provisions for diversions and systematically gave priority to the dismissal of proceedings in trivial cases, where educational measures (specifically placed on par with attempts to make amends or redress the damage caused by the offense) are completed. The possibilities for suspending youth custody sentences of 1 to 2 years were also expanded (see Section 21 (22) JGG), thus evidence of a development which had been anticipated in practice and in case law. The "juvenile criminal law reform through practice" developed in the 1980's was found to be a positive measure. The proportion of proceedings dropped under Sections 45 and 47 JGG (that is, by the prosecution of the court, possibly in combination with community service orders, forms of care involving probation, etc.) rose. The reform also broadened the range of sanctions used up to this time to include the new, experimental "non-custodial measures" such as community service (employed as a disciplinary measure), social training courses (such as those that dealt with anger management and aggression) and mediation between the offender and the victim. Victim/perpetrator mediation became sanctioned as of August 30,

1990. It is a forum by which to get the victim and the accused together to reconcile the problem between them. There was also a preference for probation rather than placing the youth in a locked facility.

Juvenile justice law was made more subject to constitutional safeguards with further developments regarding a sentence's proportionality to the offense. In Germany, a drastic reduction in youth custody sentences was advocated. The desire was not to impose stricter penalties, but rather to explore the possibility under adult criminal law of inflicting fines without holding a full trial.

Detention pending trial was ordered more frequently for juveniles than for those over 21 years old. About half of those detained pending trial were not given an unsuspended custodial sentence. Detention pending trial took over the function of a short custodial sentence, though this in principle was abolished by the legislature (see Article 47 of the Criminal Code and Section 18 JGG, whereby the minimum youth custody sentence is six months). Empirical investigations have shown that, especially for juveniles and young adults, unlawful ("apocryphal") grounds for detention come into play (Duenkel, 1991; 93).

The 1990 Reform of the JGG in Germany restricted to juveniles the direct involvement of social workers in the juvenile courts (for investigation of the offender's social and personal situation). It also

addressed the mandatory appointment of counsel (see Section 72a and Section 68 No. 4 JGG). The social service workers (known as "detention decision" assistance) are involved in proceedings against young adults and are required to report in cases involving detention (see Section 107 and Section 38 (2) JGG)

The 1990 Reform act extended the scope of the provision to provide education during detention pending trial to include up to 24 year olds. It remains disputed whether, in addition to educational facilities, educationally motivated impositions, such as the compulsory work advocated for juveniles (widely regarded as unconstitutional) is also possible (Duenkel, 1991; 94). In summary, major reforms,

1. abolished the indeterminate youth imprisonment penalty
2. introduced regulations for the reduction of pretrial detention for juveniles
3. introduced new educational measures like the obligation to undertake some activity in the public interest (e.g. community service) or to join a social training course.

The debate continues as to the proper relationship between punishment and education It is feared that a rehabilitative approach, with its emphasis on education, will undermine criminal law in general. Those who support a retributive approach voice these reservations.

In 1991 and 1992 policy proposals were generally more liberal. There was a demand for stricter adherence to the principle of proportionality (Tatproportionalitaet) and proof that the measure taken (youth custody) is appropriate and necessary (in terms of prevention) taking into account alternative penalties. The call for abolition of youth custody on the grounds of harmful tendencies (which is justified in case law by the need for longer general education), by a special education requirement is now gaining growing support. These proposed reforms were called for by a resolution of the Bundestag in June 1990 to overhaul the conditions for sentencing to youth custody, as part of the overall reform of German juvenile criminal law underway by October 1992 (Duenkel, 1991; 93). At the end of 1992, the federal government was asked to present a restructured new Youth Court Law, but this has been postponed due to the overburdening of the government because of the impact of German unification

The reforms of 1994 essentially amended the general penal code. The amendments of 1994 and 1998 came about due to changes in the general penal code (adult). Changes occurred in the youth law in order to bring the two in sync. The law addressed organized crime, specifically money laundering and tax evasion. With regards to pre-trial custody, youths 14 to 18 have the right to obtain the services of an attorney

immediately. As it stands, youths 18 to 21 do not get a lawyer immediately and may wait longer than three months (locked up in a prison) for a lawyer. As stated earlier, the April 1, 1998 reform was an amendment to the general penal code. The minimum sentence for grievous bodily injury/harm went up from three to six months.

Today, the German juvenile justice system is based primarily on the principle of education. The juvenile system centers its attention on the offender (his person and his rehabilitative needs) while the adult system focuses on the offense. Proportionality, a principle derived from the German constitution, advocates that any intervention in juvenile criminal cases has to be proportional to the offense committed. Therefore, the educational measure should not exceed what is required to prevent reoffending. Current debates regarding the German juvenile justice system include:

- lowering the age of minority from 14 to 12
- adopting a policy of zero tolerance
- Sending youths to community service projects (this is done but the possibilities of expanding options is an on-going discussion)
- increasing the use of closed homes
- An examination of the variations that exist between different states regarding the enforcement of laws

- Policy proposals which are increasingly more conservative; for example, the maximum sentences that are being imposed
- Penalties imposed for property theft crimes that are more severe than those given for bodily harm
- Changing the youth system to a regional system, from one based on districts
- improving the coordination of services
- the modernization of laws to address issues such as computer crimes
- Discussions regarding parents assuming part of the cost of socialization programs to which their children are referred
- Increasing the penalties for sex crimes

The laws do not necessarily always have to be amended, since there is some leeway in how they are enforced in different states. In some cases, this leeway reflects on the policy by making it appear to be open, broad, and flexible, while under other circumstances, the leeway given judges seems to be arbitrary and subjective. Policy can be influenced by the leanings of political parties (e.g. a liberal party brings with liberal views). Sometimes policy changes occur in order to bring juvenile law in line with adult law (the trial procedures and sentencing differ). The youth law generally is considered more flexible, allowing more alternatives than adult

law. The extent to which the law is enforced has a tendency to reflect the increase in crime.

b. Research Questions

Responses to the original research questions that guide this study are presented here given the findings of data collected. Major differences between the two systems are highlighted given the open/closed dichotomy that forms the framework for this study. Conclusions derived from the data are presented in Chapter 5.

Research Question #1

What are the most important determinants of juvenile justice policy for delinquent youth in France and Germany?

The determinants of policy formation in France and Germany vary according to the "openness" or "closedness" of those two systems. France is representative of a closed system, while Germany is representative of an open system.

France and Germany differ on the open and closed dimensions as demonstrated by characteristics intrinsic to each system. For example, France favors a centralized administrative structure, while Germany's administrative structure is largely decentralized

French bureaucracy separates itself from society due to an administrative culture that can be characterized by rigid hierarchy, elitism imparted to those in positions of authority, authoritarianism, and the maintenance of pyramid-like structures. German society assumes that there is a symbiotic relationship between bureaucracy and society. In France, the administrative culture is reminiscent of the Napoleonic era while in Germany administrative modernization has to be understood as a "bottom-up process", which is characterized as a willingness to use new concepts and increased flexibility by public administrators (Roeber and Loeffler, 1998)

The reluctance of French juvenile justice professionals to grant interviews might be interpreted as an example of their unwillingness to share information with those outside of the system. However, juvenile justice professionals in Germany were very receptive to granting interviews and sharing information with people from outside of the juvenile justice system. In the German system, professionals shared authority and expertise The Governor of Baden-Wuerttemberg's staff arranged interviews at all levels of the juvenile justice system, not just with top administrators as did the French sources contacted for interviews in that country. The interviews in Germany were arranged with professionals who had earned respect within their system based on job performance. In

France, interviews arranged by government sources were with those individuals who held high ranks within the system. Professionals holding high ranks within the system were considered by governmental sources to be the most knowledgeable and able to speak on behalf of the French juvenile justice system. French interviews with others at lower levels of the system were arranged privately and not by government sources.

Germany has a more complex legislative process than does France. In the French legislative system, decisions are typically made by those individuals granted authority from within the system manner rather than by consensus as in the German legislative system. For example, France's court system reinforces the elitism of judges, as opposed to the German juvenile justice system where responsibility for decision making is shared among professionals.

Communication within Germany and outside of Germany is facilitated by the presence of a large number of computers in use. With more personal computers in use, Germany is better connected with the larger environment than France, which has fewer personal computers in use.

The determinants of juvenile justice policy will be different for France and Germany given that they vary on the open/closed dimension. The argument for why France is representative of a closed system (and

Germany an open system) can be demonstrated by a variety of historical, environmental, social, economic, theoretical, structural/bureaucratic, cultural, religious, and political factors This leads to the conclusion that the determinants of juvenile justice policy may be significantly different on the policy dimensions identified as values, goals, objectives and accountability.

Seventeen categories of data, referred to as concepts, emerged from the content analysis of focused interviews. Seven concepts directly correspond to the independent variables investigated in this study. The data collected in each category was applied to the hypothesis upon which it seemed to have the most impact. The information contained in categories labeled influence of the media and policy/law/reforms were applied to hypothesis one. The category labeled public opinion and perceptions and the data contained there, seemed most applicable to hypothesis two. Interview data gathered under categories referred to as the legislative process and administrative systems and procedures provided the most insight to hypothesis three. The issue raised by hypothesis four was illuminated by the information grouped by the categories impact on youth:theory and reality and diversions/restorative justice.

The data, when grouped by concept, gives insight to the stated hypotheses when viewed within the context of the open and closed systems

framework. From an analysis of the policies, four concepts emerged as dependent variables, those of values, goals, objectives, and accountability. Media coverage, as well as personal experience, represents means of influencing public opinion. Citizens of the two countries where interviews were conducted held the perception that the roles of media and public opinion had an impact on the population, which strengthened the selection of these as variables to be explored. The level of interaction that each system experienced with its environment as well as the nature of the juvenile justice policies' orientation to punishment or treatment, given the open/closed dichotomy, were suggested as well. The explanations for these phenomena surface as a result of the findings of this study. These indicators provide insight to the very real factors that determine how policy formation is influenced in these two States.

Research questions #2 and #3 will be considered in tandem to increase the quality of the response.

Research Question #2

How are the two juvenile justice policies similar and/or different?

Research Question #3

How can the similarity or differences between the policies be explained?

The second research question, "how are the two juvenile justice

policies similar and/or different?" can essentially be explained by examining Tables 3 (page 151b,c) and Table 4 (page 171a,b). These two tables illustrate the similarities and differences between the two policies. The third research question, "how can the similarities or differences be explained?" is an attempt to expound on why these similarities and differences occur given the evidence as revealed by sources used in this study. A response to these questions will be given in subsections which each represent a significant deterministic factor. As the evidence indicates, for the most part the differences between policy in France and Germany can be attributed to historical and cultural factors.

Historical factors

An important historic factor that influences the policies is the time in which they were created and the events that accompanied these time periods. The French policy was written in 1945, post World War II, during the time of Charles de Gaulle and the 5th Republic. The German policy was written in 1923, post World War I during the Weimar republic. The times in which the policies were originally written are marked by significant events. In 1945, France was experiencing the aftermath of World War Two. The public was less likely to incarcerate criminals because it was felt that they were needed for the rebuilding of France. By 1923, in Germany,

more time had passed since the end of World War One and the public was ready again to incarcerate criminals. In France 1945, crimes such as looting and vandalism were rampant and therefore not enforceable. To some extent, the public sense of right and wrong was aberrant. In Germany 1923, the public had a clearer sense of justice and were more willing to conform to laws Therefore, the law was enforced without exception and crimes were punished. There was less media coverage of juvenile justice issues in France 1945, due to media attention devoted to reconstruction efforts. In both 1945 and 1923, both countries were experiencing economic crises, France due to reconstruction post World War Two, and Germany as a result of reparation and inflation

The French tend to be very proud of their post-war policy due to its affiliation with the post-war reconstruction of France and the sense of nationalism that ensued. The principles of the French juvenile justice policy were preserved and reinforced by the French constitution of 1958.

The German policy is older and underwent significant revisions during the period of the Third Reich, which responded to juvenile delinquency with harsh penalties that included lengthy incarceration and the death penalty. At that time, the policy addressed the social welfare of youths as well as the drafting of young men 16 and older into the military. Though the most severe of these penalties have been eradicated, there are

still some detention sanctions that remain.

Social factors

There is an implied social responsibility on the part of French parents for crimes their children commit. This is enforced on a limited basis through the imposing of fines on parents, which is not written into the German policy. Culturally, French parents, as compared to German parents, have been less likely to assume responsibility for monitoring the activities of children outside of the home. French parents view the activity of monitoring outside the home as the responsibility of the authorities. This may explain why the French policy takes a stronger stance on holding parents responsible for the activities of their children (interview, Ms. Boissinot, 9/14/99).

Economic Factors

Economic support for the implementation of the French policy is contained within the policy by designating parties responsible for the financing of programs This financial commitment is not part of the German policy Therefore, funding designated in support of court sanctions is not assured. In France, parents can be fined for crimes their children commit. This is not true in Germany. Responsibility for financing programs for

children who come through the French court is assigned to families, as are tutors when the court refers youths to them. German parents can not be fined. The German policy makes no references to financial support However, good programs/personnel/resources are costly. Without the appropriate resources, work in support of children and families is limited. As one German judge commented, "Changing laws is easier than doing more work with children and families" (interview, Mr. Eckert, 5/19/98).

Theoretical factors

As the social sciences have developed, France and Germany have adopted an interdisciplinary approach to youth issues. This development has had a considerable impact on juvenile justice issues in those countries.

The policies impact society given their cultural/historic conception of childhood, adulthood and human development. For example, the French policy applies to youth ages thirteen to eighteen, while the German policy applies to youth ages fourteen to (potentially) twenty-four. The German policy allows for this flexibility due to its emphasis on establishing a youth's maturity level as part of the court's evaluative process.

The German policy makes seventeen references to adult penal code, while the French policy makes a total of thirty-five references to adult penal code. This seems to indicate a commitment by the German policy to

establish policies that more appropriately address what is viewed as a unique life stage (i.e. adolescence). As such, it is unique, and different from, adulthood, which requires its own level of sanctions and considerations. Studies in the social sciences have suggested that juveniles differ from adults in their psychological and social characteristics. In spite of this, implied in the French policy is the notion that youth are small adults, whereas the German policy recognizes adolescence as a life stage that spans the years from pre to post adolescence. The German policy emphasizes the need for an assessment of the youth's moral and intellectual development. It places great value on evaluating the youth's environment. A collection of social history, psychological evaluations, educational reports, must all be gathered prior to a youth's appearance in court.

Cultural factors

Different countries have different ways of defining a juvenile in terms of their expectations for moral and mental development in a youth wihin this age range. The age range may differ between societies as to who is considered to be an adolescent. In France, the juvenile justice policy applies to youth ages 13 to 18. In Germany, the juvenile justice policy applies to youths age 14 to 21 and with exceptions, can be applied to individuals up to age 24.

There are variations regarding the definition of what constitutes a violent crime, the classification of crimes, and the measurement of crime rates. For example, there are a variety of definitions for fraud because societies vary in their conception of trust and honesty issues (Pfeiffer, May 1998).

There may be difference in how legal systems relate to the role of law. In France, citizenship is defined through the State, therefore State intervention is considered to be a good thing. In Germany, there is a devaluation of the State's responsibility for justice. The German juvenile justice system focuses more on reaching an agreement with the injured party (victim-offender mediation), which serves justice by repairing harm. With the French notion of individualism comes the cultural belief that the individual comes first, as is embodied in the "rights of man". Germany is a collective society that supports the belief that the group takes priority over the individual.

Religious factors

The German "Youth Court Law" stresses values that seem to have strong Protestant roots, referring to work ethic, righteousness, punishment, reformation and remorse, "instilling a sense of honor", and making a commitment to leading a responsible life. France is largely a Catholic

country, which may also contribute to explaining why particular values, goals, and objectives are stressed over others. The French juvenile justice policy has religious overtones, is moralistic, and makes reference to reform by way of religious training.

Political factors

When examining political influences relevant to the development of juvenile justice policy in these two countries, it should be recognized that France has a unitary bicameral parliament while Germany has a quasi-federal bicameral parliament. In Germany, people vote for a party platform, while in France people vote for the platform of both the party and the politician. Germany leans towards being a more collective society, while France presents as more of an individualistic society. Both countries have legal roots in the Napoleonic code. Germany has, however, been strongly influenced by Weberian philosophy while France holds truer to its Napoleonic roots.

The influence of the party-elect seems to be similar in France and Germany: Socialists bring to office liberal views that favor preventive measures, while Conservatives seem to lean towards policies that encourage "law and order" tactics. There are apparently more pressure groups in France than in Germany and that creates an appearence of more

political activism in France. Germany has a longer recent history of Conservatism with the sixteen-year reign of the Kohl administration that preceded Schroeder. France's political history is more fractured by frequent changes in political parties, the candidates of which held office for considerably shorter periods of time.

Structural/bureaucratic factors

The French system evolves from Napoleonic despotism as a system of administrative culture. The German system evolves from a Weberian system of administrative culture. Germany's move away from traditional Weberian philosophy has been a "bottom-up" process where local government has been more willing in recent years to implement new management strategies and show flexibility (Roeber and Loeffler, 1998).

As would be characteristic of the open and closed dimensions, the French policy defer heavily to the role of the judge and his/her authority in the court. The German policy however (as would fit the framework of an open model) frequently involves professionals other than the judge in the juvenile court system/ adjudication process. Since the role of the judge in the French system is "a priori", the policy gives the judge authority to act before all the information surrounding the case, and the youth, is collected. The German system restricts the judge from imposing sanctions before all

of the background information is collected. In doing so, a weighty reliance is placed on others involved in the juvenile justice system (i.e. authority among the professionals is distributed). As part of the attempt by the German system to involve a variety of professionals with expertise in juvenile issues in the court process, there is also a clause that specifies that both men and women are to function as lay assessors at each trial. There is no reference to gender in the French policy.

Structurally, the French policy states rules and procedures in a general manner. As a result, the policy tends to be short and concise and relies more on the judge for interpretation. In contrast, the German policy is lengthy and detailed. It elaborately outlines the options available for enforcement.

The French policy places more focus on the court's structural aspects as with its priority on the court's determination of guilt or innocence. The German policy sets a high priority on the court's role to evoke remorse in the offender as well as establish the wrongfulness of the act, and to impress that upon the offender.

More recent changes in the structure of the French system have occurred as a result of efforts to hasten the court process and decentralize the system. Specialization among actors within the French system is stressed. Within the age ranges of the youth that the court serves, there

exists the option for younger offenders to receive shorter sentences.

In this dissertation, the literature of open/closed systems theory is applied within the context of the structural/bureaucratic dimension of culture. There are many possible factors that may explain why juvenile justice policy is written as it is in France and Germany. The possible list includes, but is not necessarily limited to social, cultural, religious, political, and economic factors. This study suggests that one possible explanatory variable in determining why juvenile justice policy is developed in the way that it is in France and Germany is the structural/bureaucratic dimension. This dissertation makes the argument that the structural/bureaucratic factor is most significant factor in policy-making for France and Germany. The structural/bureaucratic dimension is proposed as having explanatory power while at the same time acknowledging that there are other factors that hold explanatory power in varying degrees. In acknowledging these factors, it is recognized that there are sources of culture other than the structural/bureaucratic aspects. These other factors should be acknowledged and considered for their ability to shed light on the larger "big picture" issues in consideration. While recognizing that structural/bureaucratic factors emerge from and to a degree reflect other sources of culture, it has been the thesis of this study that this structural/bureaucratic dimension plays a crucial and to a large degree independent role in explaining predictors of juvenile justice policy. However, these other sources of culture may explain why there are no ideal cases of open and closed systems, also explaining,

perhaps, some of the ambiguity of the findings of this study

Elements of policy. Values, goals, objectives and accountability

In terms of values, goals, objectives and accountability, the two policies share many similarities, but also differ on significant points.

Values

In France, the philosophy underlying juvenile justice policy advocates giving youth an appreciation for French culture, arts, and history By teaching youth about French accomplishments and milestones in these areas, the youth is expected to gain an appreciation for French culture and society, and will be less likely to act out against it. The German policy reinforces the focus on developing a strong work ethic by emphasizing the need for vocational training and education among juveniles. The philosophy behind this is that work keeps people busy and productive. Youth's support of the larger society can be won by involving youth in work that makes them take pride in both society and their contribution to it. The philosophy behind this is that youth who work to support society take more pride in it and are less likely to act out against it.

Goals

Equality for all citizens is a goal stated in the French juvenile justice policy. To achieve justice is to assure that the youth will not reoffend. The goal of the German system is to establish that the act is wrong and evoking remorse (focus is on the individual). The German system also focuses on the need to provide protection and security for its citizens.

Objectives

The French juvenile justice policy works towards achieving the objective of giving all youths a reference (defined as comprehension, understanding, appreciation) of the law. The French system seeks to convey citizenship by teaching youth the notion of rights and duties as they relate to social responsibility. An objective of the French system is to reconstruct the youth's personality: make the youth aware of their crime and help them repair their mistake. The German policy stresses vocational training as a means to reintegrate the youth into society. The German system has taken more initiatives to incorporate victim/perpetrator mediation into their deliberations.

Accountability

In the French system, there is a high priority on the establishment of

guilt (focus on structure), which may explain why the judge is held in such high esteem in the French court system.

Accountability in the German policy involves more actors within the system, cites the need for participation by both men and women, as well as brings more institutions into the process. This approach is also characteristic of the German open system. The German policy addresses the development of maturity, as well as moral and mental development. This may be due to the multidisciplinary influences of psychology and sociology that are particularly evident in the German policy.

Characteristics common to both policies

The French "Ordinance of 1945" addresses privacy and confidentiality for both victim and offender, i.e. the avoidance of stigma, though professionals in the German juvenile justice system also spoke of this as a priority. Some of the differences between the policies can be explained by the variance in weight or stress placed on particular concepts. For example, "social insertion of the youth back into society" seems to be more stressed in the "Ordinance of 1945" (France) than in the "Youth Court Law" (Germany), though it appears in both policies.

Both legal systems promote restorative justice. Both systems are based on a positive law tradition (laws enacted by a law making body-

legislation). Education is valued over punishment, as is the prevention of subsequent crime The impact of social science and interdisciplinary studies has been that both systems share the notion that juveniles and adults differ in their social and psychological make-up.

c. Hypotheses

The assertions made by each hypothesis can be explained within the context of open and closed systems.

Hypothesis 1:

Open systems are more likely to have interaction with the external environment than do closed systems. Open systems promote interaction between a system (as in the example of the legislative system) and its environment (as represented in this example by society). Open systems promote the sharing of information, in this case, by way of media to an audience of their readership. This can be interpreted as an exchange of energy (ideas) with the larger society, which is external to the legislative process. *Therefore, the hypothesis can be made that media coverage, which theoretically serves as a vehicle that exposes both policy makers and the public to policy issues, influences policy changes in an open society more so than in a closed society.*

Hypothesis 2:

The larger policy environment refers to the society for which legislation is designed to serve, i.e. the public. *The influence of public opinion on policy change theoretically will be greater in an open system, which is characteristically receptive to external inputs.* A closed system is less receptive to the influence of public opinion because it focuses on the internal efficiency of the system and regards the environment as unchanging and predictable. Therefore, the opinions of the public are less likely to be solicited. The closed system views bureaucracy as apart from society and the citizen, which is another reason why input from the public would not be solicited. In this way, closed systems reveal themselves as rigid and impersonal.

Hypothesis 3:

Policy-making is characteristically more complex in an open system because of the number of actors and sources that can have input to the policy making process The number of actors and sources having input to the legislative process is evidence of a high level of flexibility in the open system. The German legislative process allows for multiple opportunities for mediation and debate, which illustrates the adaptability and complexity of their system. Consensus, used as a resolution technique is facilitated by

mediation, which is characteristic of an open system. Closed systems are characteristically simple, authoritarian structures directed from the top-down, as can be seen in the diagram of the French legislative process. Therefore, policymaking in France will involve fewer stages of deliberation and will proceed faster than in Germany.

Hypothesis 4:

An open system is more likely to take a preventive approach to juvenile justice because open systems view individuals as willing to work (e.g. towards goals for self-improvement) and as having the capacity for change. Each encounter with an individual is unique, and can be improved by interactions that are mentored and supportive, such as in a therapeutic relationship. Because preventive approaches typically combine behavioral and cognitive methods to achieve their goals, the results have to be measured over time in order to determine their effectiveness. It has been argued that the preventive approach may take longer for results to be seen (Mr. Eckert, 5/19/98). The traditional "closed" approach to justice is authoritarian, routinized, and systematic. Interactions in the closed system are role or task oriented, as in French courts where the judge is responsible for much of the decision making. Individuals are viewed as lazy and preferring authoritarian leadership. Punishment fits this characterization as

it can be viewed as simple, direct and results are perceived to be immediately achievable.

Hypothesis #1

Policy changes and media coverage are more strongly related in Germany than France due to Germany being an open system while France is a closed system.

News media and policy changes are examples of indicators that serve to demonstrate the dimensions on which France and Germany differ given the open/closed dichotomy. The first hypothesis speculates that the dimensions on which France and Germany vary have to do with how policy changes are influenced by media coverage.

Germany

German news focuses primarily on elite persons, elite nations, negative events, and the actions of people (Schutz, 1976). The quality of news is not evaluated in terms of its correct portrayal of reality, but in terms of its usefulness for society One German reporter has defined news as, "information transmitted from a variety of sources, to audiences", though this may be idealized. Regional and local papers, rather than national dailies dominate the German press. Characteristics of reporting in Germany include a respect for pluralism, and are information oriented, responsible, and serious (Humphreys,

1990).

On the individual level, German journalists provide interpretations of events and write subjectively with the intention of giving news stories "perspective" (Martin and Chaudhary, 1983). In doing this, however, German journalists attempt to distinguish between news and opinion. This may result in news stories that are not "true" accounts of reality, but that is not considered necessary in Germany. What is valued is a reporter's ability to be truthful and to assume a responsibility to provide the best coverage of an event possible (Donifat, 1967). The journalist's task is to summarize, refine, and alter what becomes available to them in order to make the information "suitable" (addressing the idea of its usefulness for society, Gans, 1979).

According to Humpreys (1990), news media in Germany are viewed as having multiple functions. They serve an important democratic function, as they represent a wide range of different political, philosophical and cultural viewpoints. They have a viable function for stabilization and legitimization, as they help support and maintain economic, social and political order. News is credited with giving expression to a wide variety of interests and is flexible enough to incorporate new social concerns and movements. News coverage draws attention to political abuses when they occur, performing a sort of "check" function. As a social control function, news limits the political, economic and cultural agenda. It can manufacture

acceptance and support for dominant groups in society Finally, news serves the function of pluralism and diversity by drawing attention and support to new social movements, community, and social issues as well as working to promote socially aware and investigative reporting.

The German press reports that the public perceives rehabilitative efforts to be more costly than punitive measures (e.g. lock up, detention). Specific crimes (e.g sex crimes) receive public attention as a result of extensive media coverage. Due to the recent reporting of sex crimes, [interviews, Ms. Haas (5/19/98), Mr. Eckert (5/19/98), Mr. Ehrhardt (5/22/98)] public opinion favors lowering the age of minority from 14 to 12. Several people interviewed within the juvenile justice system agreed that, though the system is extremely sluggish, things are changing because of public pressure and increasing media attention. Those within the system believe that people pay attention to what they see in the media. However, one German journalist commented in an interview, responding to a questionnaire (see Appendix F), "and I find it hard to measure the influence of the media on policy making or public opinion (Personal communication, Stefan Kornelius, 5/5/99).

France

A type of "yellow" press that appeals primarily to the working class dominates the French press (Freiberg, 1981, p. 253). In contrast to this is the

newspaper, Le Monde. Le Monde is considered by some to be the most esteemed newspaper in Europe (Viorst, 1974, p. 44) It is the most "national" of the Paris dailies. It has been described as controversial, tendentious, occasionally cranky, having a certain snob appeal. Le Monde transmits the cultural values (ideological level) of the elite (audience orientation, i.e. consumer) by reinforcement (White, 1996, p. 191). It sets a standard of literacy and assumes a level of sophistication and seriousness. Le Monde is known for its level of quality with regards to documentation and research. Le Monde, as well as Le Figaro, represents the informational press in France, which is found only in a few publications. Its readers make up the educated elite – professors, diplomats, professionals, and civil servants, who are clearly part of the establishment. Surveys have shown that Le Monde is the newspaper France's decision-makers and people of influence are most likely to buy (White, 1996, p. 53). While a newspaper such as Le Monde at times will take strong positions that are sometimes absolute, it also is committed to providing its readers with all possible information so that they can make their own informed decisions (role of journalist as disseminator of information). Its philosophy is not just to publish the news, but to make the news comprehensible (organizational level). Its goal is to be thorough in the reporting and analysis of the news available; the objective is to explain. Le Monde strives to present the truth independently and honestly (Viorst, 1974, p 45) It began as a paper aimed at a mature

audience, but over the years has gained the readership of high school and college aged students (Viorst, 1974, p. 44). In surveys, its readers describe Le Monde as "honest" "complete" and "accurate" (Viorst, 1974, p. 47). It has, at times, has been criticized for going overboard in the mix of reporting and commentary. Le Monde pursues a range of popular opinion and is recognized as not favoring a particular special interest (extramedia level).

In France, the individual reporter's influence on media content is significant due to the fact that news and opinion are not separated. Bernard Lauzanne, an editor, wrote (Viorst, 1974, p. 46), "the line between valid interpretation which contributes to the understanding of an event, and outright opinion, which is nothing more than the writer's self-indulgence, is sometimes extremely fuzzy" According to spokespersons from Le Monde, its journalists attempt to establish the truth of an event in order to create an authentic document.

At the organizational level, Le Monde makes judgments that are sometimes severe and categorical. Le Monde believes that it has the right to do so in the attempt to present its readers with all the elements of information possible, so that they are better able to make their own informed judgments.

Historically, in France, there has been an association between newspapers and political parties. However, today, a highly politicized,

nationalistic press dominated by political parties has all but disappeared. Le Figaro, a respected French newspaper, is considered to be articulate, sophisticated, informational and right leaning. Unique to Le Monde and Le Figaro, political coverage has gradually increased over the years. The influence of political coverage on the media is representative of the extramedia level of influence, that is, influence from outside of the media organization which is part of the external environment. Any degree of depoliticization in Le Figaro can be accounted for by the presence of increased advertising.

Summary

Papers which might be described as "yellow presses" are overtly apolitical, inherently conservative, informationally devoid and crisis oriented. This press minimizes the reporting of social, political (national and international) and economic events. The coverage that they do provide focuses on the formal or incidental aspects of political events or the personal lives of individual political personalities. This press focuses heavily on the human-interest story.

An alternative to the "yellow" press is the "informational" press that conceives of the world as both natural and social, understandable and thus manageable (Freiberg, 1981, p. 217). This correlates with the open

systems conception of the world as natural and humanistic. This type of press coverage assumes the joining of the state with civil society, just as an open systems perspective acknowledges a symbiotic relationship between bureaucracy and society. In contrast to this, the "yellow" press considers that social disorder is a product of deviance and contributes to it, and can be eradicated only if and when adequate repression is applied (Freiberg, 1981, p. 226). The closed systems view of human nature assumes people are lazy, bad and evil, which relates to this notion of deviance. A closed system attempt to use formalization as a means to make behavior more predictable by standardizing and regulating it (i.e. imposing control, or repression). The "yellow" press assumes a division of the state from the civil society, just as closed systems theory views bureaucracy as apart from society and the citizen.

The more intellectually informational press is based on facts and concepts, logic and the presentation of arguments. Establishing causality is based on scientific rationalization. The informational press seeks to demystify by way of knowledge and expertise. This is in contrast with the "yellow" press that is imbued with the mysterious, the inexplicable, and the passionate (Freiberg, 1981, p. 217). It employs the logic of emotion, identifies anti-scientific, non-linear causal chains. The "yellow" press focuses on the bizarre, unexplicable and deviant. As such, the yellow" press

takes the position that events are beyond amelioration through policy intervention and social change.

There are other media applications that illustrate the open/closed system dichotomy. The open/closed models as applied to communication systems can be measured by the receiver system and the message system. The open system is more unpredictable while the closed system is predictable. In an open receiver system, anyone can be a member of the audience while in a closed system they can not. In an open message system, there are fewer controls, while in a closed system, there are many controls.

Both the "yellow" and the informational press exist in France and Germany. One German journalist commented, "it is hard to generalize about 'the press' as there are thousands of different media" (Personal communication, Stefan Kornelius, 5/5/99). The "yellow" press is indicative of a closed system, while the informational press is indicative of an open system Characteristics of the two major informational presses (informational and yellow) as they relate to the open and closed dichotomy are illustrated in Table 5, page 230a. It is not surprizing to learn that there is a larger (meaning higher number) informational press in Germany due to its being an open system than in France, which is a closed system. In France, newspapers of the "yellow" press genre predominate, primarily because they appeal to the masses. France, however, has offset this deficiency with the prominence of its informational press, as typified by Le

Table 5

Characteristics of the two major European presses as they relate to the open/closed dichotomy

"Informational" press	**"Yellow" press**
Open	*Closed*
Conceives of the world as rational and social, understandable and manageable. Corresponds to the open systems view: natural and humanistic	Social disorder is a product of deviance that can only be controlled through repression
Joining of state with civil society: just as open systems joins bureaucracy with society	People are lazy, bad and evil
Focus on the intellectual: facts, concepts, logic, scientific rationalization, knowledge and expertise.	Uses formalization to standardize and regulate behavior
Events are improved through policy intervention and social change.	Recognizes a division of state from civil society
	Views bureaucracy separate from society and the citizen
	Mysterious, inexplicable, passionate, anti-scientific
	Events are NOT improved through policy intervention and social change

Monde and Le Figaro. Both countries mix reporting with commentary. What emerges from this research is that there is more of a sense of there being a "European" press from which Le Monde emerges as a prominent news source, but which just happens to be in France.

Having established a context for understanding media coverage in France and Germany, and introducing a model to structure this information regarding the media, findings related to the impact of media coverage on policy changes given Germany's open system and France's closed system are presented below.

France

From the perspective of people working in the juvenile justice system in France, the press has widely covered the issue of juvenile crime and recently reported an increase in juvenile crime when compared to crime in general. Several French citizens commented in interviews that the newspapers and magazines do not place particular emphasis or give extra attention to youth crime. Once in awhile, there is a special edition circulated which focuses on youth crime, but for the most part, it does not receive special coverage. However, people interviewed were talking about media today, not at the times of France's "social revolutions".

A recent article in Le Monde Diplomatique (4/9/99) entitled, "US

Exports Zero Tolerance" outlines new ways of addressing juvenile crime adopted from the American model. The article accused mainstream media of, "often forgetting that 'urban violence' is rooted in the generalization of social insecurity". The author accused the media of, "contributing their own bias to defining these alleged threats to society". The article argued that interventions such as zero tolerance, curfews, suspension of social allowances to offender's families, and increased repression of minors, may lead to the extension of social control, compounded with "exploding rates of imprisonment".

When the media report on laws and are misinterpreted or inadequately represented, they can lead to misunderstandings by the public. For example, there are currently several contradictions in the implementation of the French law. Typically, youth 13 to 16 can not be held in custody pre-trial. However, there are exceptions made in certain cases, as when the youth is over a certain age. Youth often make the erroneous assumption that they can never be put into jail pre-trial because that's what the media leads them to believe by not adequately reporting the exceptions (interview, Mr. Velu, 5/28/98).

Germany

Most people interviewed in Germany voiced their perception that media coverage of juvenile justice issues was consistent and frequent. They

agreed that the media draws attention to public perceptions. People pay attention to what they see in the media. Therefore, media attention can contribute to a rising public pressure on legislators to act. In the opinion of one German journalist, it is hard to measure the influence of media on policy making or public opinion. Any attempt to do so would be too subjective and not scientific (personal communication, Stefan Kornelius, 5/5/99).

As will be noted later in this research, during times of the "social revolutions" in juvenile justice policy, Germany's news coverage of juvenile justice policy/crime issues was sparse.

Lately, the police in both countries have focused more of their efforts on dealing with juvenile crime. A few years ago, there was no distinction made between under-18 criminals and others when maintaining statistical records and/or reporting on incidents of crime.

Thirteen journalists representing France and German presses were contacted by phone to respond to a questionnaire regarding the characteristics and nature of print media in those countries. The questionnaire was faxed to them prior to the phone call in hopes that a more thoughtful response to the questionnaire would be given. The journalist's names appeared on a list of provided by the French and German embassies of journalists currently working in the US. One German

journalist refused to reply to the questionnaire labeling it "unscientific" (personal communication, Stefan Kornelius, 5/5/99). Another German journalist remarked that he made it a policy never to respond to questionnaires (personal communication, Gerd Brueggemann, 6/2/99). The remaining eleven journalists refused to return telephone calls or respond to the questionnaire in writing. From those journalists there was no response at all to the questionnaire. The questionnaire was circulated with the intention to corroborate information collected by way of the literature and prior interviews through discussions with journalists from both France and Germany (see questionnaire, Appendix F).

Applying the model of social revolutions which Kuhn referred to in his book, "The Structure of Scientific Revolutions" (1996, 3rd edition), the following dates are proposed as representing social revolutions in the French and German juvenile justice systems. Each of these dates denotes an event that ultimately produced the "sweeping social change" that Kuhn described in his writing. Each event was a response to a crisis, which led to a paradigm shift from which new theory emerged. The amendments that evolved as a result of these larger "social revolutions" were in effect, incremental changes in the existing juvenile justice system intended to create policies which would conform with the new theory, new paradigm. Amendments implemented by way of incremental changes, support and

strengthen the newly accepted paradigm.

Social revolutions which influenced French Juvenile Justice Policy

June 4, 1970: Prior to 1970, it was the father who made all of the important decisions in French families. In 1970, the idea of *Authorite parentale* (parental authority) replaced *Puissance paternelle* (paternal authority). Beginning with this amendment, the opinion of both parents was taken into consideration and each had the same rights with regards to the family.

March 28, 1996: Legislative debates of the early to mid 1990's focused primarily on measures that expedited the court process to accelerate justice for the minor. The continuum of services was expanded with the creation of reinforced educational confinement groups to address the need of the most serious and chronic offenders.

Social revolutions which influenced German Juvenile Justice Policy

August 4, 1953: In 1953, there were changes in implementation and enforcement. The level of enforcement is cyclic between times where maximum enforcement is a popular approach and times when minimum enforcement is in vogue. At this time, eighteen to twenty-one year olds could be tried under youth law. There were discussions concerning age of majority and minority; who is an adult? Who will be held responsible for

their actions? How is maturity defined?

August 30,1990: On August 30,1990, there was a major change in the policy which put into law what was happening in practice. This was not a structural change, but a practice put into writing so that people would have a policy to follow and could apply it more consistently. This change was referred to as "diversions" or victim/perpetrator mediation. Using this approach, the victim and the accused were brought together to reconcile the problem between them by sharing their stories and perspectives with each other. The "diversions concept" provides youth with alternatives to atone for their crimes. This was accompanied by a preference for probation and educational interventions rather than punitive actions (i.e. lock up prison sentence). "Diversions" commonly involve probation, warnings, work assignments, victim/perpetrator mediation (Taeter-Opfer-Ausgleich), compensation for the victims, or talks with social workers. The use of social training courses, such as those that deal with anger management and aggression, are also employed. Popular alternatives include sending youth to community service projects in hospitals and other community settings. "Diversions" were an effort to come up with solutions to problems before they came to court, to be settled in the prosecutor's office (interview, Mr. Ehrhardt, 5/22/98). With many youths, this is enough to affect a change in behavior without taking them to court. Only youths thought to be at risk of

becoming career criminals, are brought to court. Prosecutors are supposed to prosecute everything that comes before them, but they don't because they have the option of using "diversions". Some people interviewed within the juvenile justice system see "diversions" as a passing fad, not an ultimate solution, and have since turned to other approaches, while others in the system are still very invested in "diversions". The decision to use this approach is up to the individual prosecutor. The district or county must pay for victim/perpetrator mediation. As a result, judges do not use it if they know that there is no money for its implementation (Weitekamp, 1998).

In the period from May 4-June 4, 1970 (France), crimes involving juveniles reported upon by the news media included armed robbery, kidnapping/ransom, acts of terrorism, unlawful assembly/trespass, arson, conspiracy to commit mass destruction via an explosive device, theft, assault and battery, disorderly conduct and inciting a riot. Articles relating to legislation addressed the parental authority bill, a bill to guarantee the rights of minors, public reaction to the bill on parental rights, proposed revisions of legislation, and public notification of when these bills actually became law. Follow-up coverage focused primarily on sanctions imposed upon offenders for crimes previously covered in the news. Topics of this nature include length of incarceration, whether the offender was released or held on bond, suspended sentences, and the results of final sentencing.

Commentaries by elected officials discussed crime rates and types of crimes being committed.

Newspaper coverage from February 28-March 28, 1996 (France) regarding juvenile issues included battery on a police officer and violence towards a professor. With regards to policy amendments, articles on toughening the government bill on delinquency, and commentary from public officials on proposed policy reforms (pro and con) were among those that appeared in publication. Other commentaries made by elected officials focused on violence in the schools and the establishment of Houses of Justice (and their role in dealing with petty delinquency).

There are some difficulties inherent in researching newspaper coverage on juvenile crime issues in France. During the 1970's, much media attention was given to acts of terrorism with political underpinnings. These articles focus on "students", but do not state ages, describing offenders merely as "youth". Some headlines read "young people", but then go on to describe individuals into their late 20's. Other articles describe crimes, but do not state the ages of the offenders. This places the focus on the crime, rather than the age of the offender, which seems to be less important. Media coverage of youth crime apparently gets lost among other youth issues, such as when the voting age dropped from 21 to 18. Another example might be the political parties that sponsor youth groups.

These groups have an influence on the thought processes and participation of youth in future political activities, while at the same time, winning the support of their parents. Reporting on these events seems to dominate, drawing attention to 'youth issues' rather than 'crime' issues.

Germany's coverage of juvenile crime issues was sparse. Newspaper coverage on juvenile crime issues between July 4-August 4, 1953 (Germany) included an article on a youth charged with manslaughter. The single commentary relating to youth crime was, in essence, a report on the crime rate. The period extending from July 30-August 30, 1990 (Germany) covered crimes involving gang activity

Other articles published in 1970 addressed the rising number of youth beggars, high unemployment amongst youth, and an appeal for civic organizations and churches to get involved in remedying social ills affecting youth. Thus, the themes were much more social welfare directed and not so concerned with crime per se. The police unions are very strong in Germany. They act as an advocacy group. Articles focused on law enforcement issues include statistics supporting the interest of police unions (for example, comparing the rapidly increasing rate of crime to the much lower increase in the number of police officers hired). Missing children and children who die under tragic circumstances, seem to receive much more media attention in Germany. Youth events, such as trips,

outings, sports activities, receive a lot of media coverage. Crimes committed against youth also receive considerable media attention. The latter articles addressing crimes against youth reported on theft (of money), abductions, sex crimes, bodily harm (if any) and whether the offender was captured or escaped, circumstances surrounding the crime, and whether or not an accomplice was involved.

As is visible from the accompanying charts (see Table 6, page 240a), France clearly gives more attention to juvenile justice issues during the time of its "revolutions" than does Germany. The evidence seems to indicate that Le Monde gives the most attention to juvenile issues, as compared to other prominent French newspapers. German newspapers do not seem to place a high priority on issues of juvenile crime. Not only are juvenile justice/crime issues given higher priority in France as evident by number of articles written on juvenile justice/crime, but they also rank higher in terms of the number of column inches devoted to juvenile justice issues.

Conclusion:

All interviewees acknowledged a relationship between public pressure, media attention and policy change.

German news media agenda is determined by its "usefulness" for society. German journalists give their "perspective" reporting what they

Table 6
Newspaper coverage four weeks prior to "social revolutions" in juvenile justice policy development for France and Germany

France

June 4, 1970 revolution (research covers May 4 – June 4, 1970)
(Headings are in square column inch)

Paper	# of articles	w/o heading	with heading	Placement
Le Progress	2	76	111	Pages 6, 7
Le Figaro	7	84	123	8
Le Monde	24	552	624	15

March 28, 1996 revolution (research covers February 28- March 28, 1996)				
Le Progress	N/a	N/a	N/a	N/a
Le Figaro	N/a	N/a	N/a	N/a
Le Monde	11	292	399	13

Germany

August 4, 1953 (research covers July 4 - August 4, 1953)				
FAZ	1	4	5	Page 3
Die Welt	3	28	36	3
SAZ	N/a	N/a	N/a	N/a

August 30, 1990 (research covers July 30 – August 30, 1990)				
FAZ	0	0	0	0
Die Welt	2	54	62	Pages 4,19
SAZ	N/a	N/a	N/a	N/a

*N/a = not applicable
*FAZ=Frankfurter Allgemeine Zeitung
*SAZ=Sueddeutsche Allgemeine Zeitung

feel is necessary but attempt to distinguish between news and opinion.

The objective of French journalists is to explain happenings so that the public can make their own decisions. To accomplish this, the journalists combine news and opinion. Historically, the French media has given more coverage of juvenile justice/crime issues (see Table 6, page 240a). Today, "special editions" will cover juvenile justice issues in France while in Germany the coverage is more consistent.

Therefore, hypothesis 1 is representative of the influence of media coverage on policy change today, but not as it was in the past.

Hypothesis #2

Public concern over juvenile crime is highly related to public policy formation in Germany due to the openness of that system, while in France it is less so due to the closedness of that system.

France

Most people agree that juvenile crime has increased. The juvenile justice system has been reproached by the public with not paying enough attention to the problem of juvenile delinquency. According to Ms. Boissinot, The recent debates about juvenile delinquency have been in process since about 1992 or 1993, though nothing was done to reform policy at that time. The police and *Gendarmerie* brought very few minors

to court. This period corresponds to a time of economic growth when the problem of juvenile delinquency was not a focal point of public debate It was only when debates over security and immigration came to the surface that the problem of what to do with juvenile delinquents again surfaced in public debate. Prior to this, judges dealt with individual cases when they were called upon to do so, but the problem of juvenile delinquency was not present in public debate. Starting in about 1993, the police in particular, but also representatives of the National Assembly, began to voice in public forums concern that the problem of juvenile delinquency was much larger than had been previously thought. They expressed the view that they thought the problem was not being handled properly in France. More and more trials started to take place, and in public debate, people voiced their concerns saying that the problem of juvenile delinquency was rapidly increasing. This perception leads to an increase in public anxiety, feelings of insecurity and vulnerability on the part of the public. More citizens are victims of crimes or know someone who has been the victim of crime. Looking at the numbers, one can see inconsistency in the statistics. Before 1992-3, there are very few calls to children's judges for cases of juvenile delinquency, but starting at this time, the number began to increase. There are several hypotheses that might be used to explain this phenomenon: either there really are more juvenile delinquents entering the system at this

time, or people are simply more concerned with the problem. This may force the police and *Gendarmerie* to deal with the problem more now than in the past (which in turn floods the courts with trials) [interview, Ms. Boissinot, 9/14/98].

According to Mr Velu, public opinion has the greatest influence on people working in the system (civil servants) at the local level, whose jobs are deeply rooted in everyday reality. The people who work at the local level have their own claims, ideas and reflections on the system. However, legislation is made by deputies (*les Deputes*) at the national level and is then implemented at the local level. The duty of civil servants is to enforce the law. A gap often remains between policy actions taken by legislators and public opinion. Legislators often view public opinion as being infused with emotion Educating youth requires time, many attempts are necessary, and there has to be a leeway for making mistakes (interview, Mr. Velu, 5/28/98).

Ms. Boissinot expressed her interpretation of the content of public debates. There were a growing number of cities and urban zones around large cities in which drug trafficking was beginning to involve a large number of minors. Public anxiety about this issue, as well as events publicized through the media involving youth violence and police brutality

gained public attention. These events continued to develop, probably linked to something other than the manner in which juvenile delinquency was handled (i.e. the creation of parallel drug trafficking, inter-zone cooperation, the rapid increase in unemployment, situations in which parents were no longer capable of transmitting their traditional values to their children, children feeling cut off from their roots) (interview, Ms. Boissinot, 9/14/98).

In the opinion of Ms. Picot, politicians often are tempted to follow public opinion to please the public in order to win public support, especially when they receive numerous complaints. However, legislation that follows the whims of public opinion is not appropriate, because it is not based on serious foundations, and is not necessarily just and fair. Public opinion is a subjective source of information. The law should take the social considerations into account because society evolves and there should not be too many distortions between law and the society for which it is intended to serve. Whenever the public "creates" a problem, the government creates a quick legal strategy that has to be modified soon afterwards (interview, Ms. Picot, 5/29/98). The justice system must be "wise" and not be influenced by the emotional reactions of public opinion (interview, Mr. Velu, 5/28/98). When the juvenile crime rate increases, this initiates a debate that questions the favoring of rehabilitation over

punishment. At these times, judges frequently are accused of being too easy on juvenile delinquents. Professionals working in the system commented that they do not remember any surveys regarding juvenile crime being administered to the public in recent times (interview, Ms. Boissinot, 9/14/98).

Public opinion is usually expressed through the intermediary of elected officials. The mayors and other elected officials, especially in communities touched by urban violence, play a part in bringing up these discussions. They will say to legislators at the national level, "in our cities, we have neighborhoods in which we can no longer maintain law and order, in which our children are involved in drug trafficking! What are you going to do about this?" Sometimes the DPJJ or Ministry of Justice receives letters from individual citizens expressing their frustration with crime in their communities (interview, Ms Boissinot, 9/14/98).

In Lyon, not only are youth crimes rising, but more serious, violent crimes are also on the rise (interview Mariel Pertegas, 5/28/98). In public forums, citizens interrogate the local security commission regarding their definition of security The public feels more insecure in the streets, the transportation systems, and the educational institutions (Journal Jeune à Lyon, no. 1, April 1997). It is difficult to analyze statistics since when discussing the aggravating rate of juvenile delinquency, the police rate is

used, which does not always reflect the true rate of juvenile crime due to variations in reporting from the districts. What is known is that the rate of juvenile delinquency is rising and the age of the offenders is changing (they are becoming younger). The determinant that has the most influence on legislation for juvenile delinquents is linked to the crime rate (interview, Ms. Picot, 5/29/98)

Germany

Ms. Haas explained that in Stuttgart, two times per year there is an open public forum that includes social workers, youth workers, school representatives, churches, politicians, and others to discuss community issues The public is concerned with making Stuttgart safe, though the public is slow to understand the reality of the situation regarding youth (i.e. there is little vocational training). The public reacts to a perceived increase in serious violence involving neo-nazis and drugs. Though the public sees it as unfair, pleas bargaining is used more and more often because the system does not have the people or the capacity to prosecute everything. In election years, the politicians use the same approach (i.e., to make the public feel less afraid) The Mayor of Stuttgart campaigned on a reduction of crime platform. Though the public wants to feel safe, they also want the measures used by the courts to be cost effective (interview, Ms. Haas, 5/19/98).

Several professionals at different levels within the juvenile justice system cited public opinion/pressure as directly correlated with legislative action. "Policy is changed due to actions of the legislators and public opinion. Public opinion is what causes legislators to change the law" (interview, Mr. Eckert, 5/19/98). There were divided opinions regarding the concern on the part of legislators for their own re-election. One citizen interviewed remarked, "they are elected for life and could care less!" (personal communication, M. Strick, 8/28/98). Others felt that legislators were only concerned about their own re-election. "Legislators react to public opinion due to concern about their own re-election" (interview, Ms. Haas, 5/19/98). "Legislators want to take measures to show that they take the public concerns seriously, but in reality, no one knows what to do about the problem of youth crime. There are no proven solutions and the problem is the same in all countries" (interview, Mr. Eckert, 5/19/98). It seems that public opinon can affect legislative votes on policy by influencing legislators wishing to seek re-election or win public support. "Policy makers are under public pressure to be stricter with their policies" (interview, Dr. Goetz, 5/20/98). Legislators are concerned with public opinion and are not so concerned with making the job of the workers in the system easier, so that they can do a better job. They are more concerned about themselves and re-election rather than the real state of youth crime

(interview, Ms. Haas, 5/19/98). Public opinion and police unions (which have a strong voice in Germany) are pressuring legislators to lower the age of minority from fourteen to twelve Politicians and courts do not want to do this because they feel it is a token measure to show the public that they are taking their concerns seriously. On the other hand, it is a weak gesture that illustrates to the public that the system does not really know what to do about youth crime and thus, does not instill confidence in the system.

There is usually a time lag between the crime rate decreasing and public reaction. In other words, the number of crimes goes down while public reaction goes up. Public reaction often is to do something quickly; usually this will be a demand for stricter laws because the public believes that stricter laws produce quicker results. Often, the public wants to make demands, but they do not see the whole process and all that is involved in it (interview, Mr. Eckert, 5/19/98).

Changes are more and more affected by public opinion. Public opinion can also affect the policy via implementation. "Society and public opinion is what democracy is all about; therefore, it shouldn't be seen as a negative thing" (interview, Mr Eckert, 5/19/98).

Judicial policy is highly subject to interpretation, which can vary according to region. For example, the Federal Supreme Court developed guidelines that said that the possession of small quantities of soft drugs

(e.g. marijuana) for personal use is not a crime. In spite of that, every state or even every city has its own interpretation of the policy, which tends to be more liberal in the North than the South (interview, Mr. Ehrhardt, 5/22/98).

Though logical argument might seem to conclude to the contrary, practice shows that German law has a tendency to be stricter with offenses against property than those aimed at the body. The prosecutor has to act in the case of an offense against property (above DM 50) whereas he only can act on offenses involving bodily harm and similar crimes, if the victim or someone else files a report. The prosecutor can not act unless he can show that it is in the pubic interest that he prosecutes, which is usually not difficult to do. Changes have been made to rectify this situation by making penalties for crimes involving bodily harm harsher because of public pressure. But fundamentally the law has not changed. This example illustrates one facet of the value system in German society, that money is more important than somebody's health or life! (interview, Mr. Ehrhardt, 5/22/98).

Opinion Polls

Opinion polls can serve as indicators of public concern about a particular issue. For this reason, public opinion polls (those that could be

identified) that measure public reaction to violence and crime are included in this study. Though some statistics were broken down by country, most statistics relating to this and related topics represent the concerns of the population within the European Union. Opinion polls are initiated frequently by European research groups. These research groups survey either all European countries or just those countries that are members of the European Union. European opinion polls may not breakdown statistics by country. These polls most commonly establish the priority of addressing urban crime, and fear of street crime.

The Eurobarometer has surveyed both the general public, and special interest groups, for the purpose of public opinion measurement for over twenty years. They produced a survey entitled, "Top Decision-Makers Survey Summary Report" (Fieldwork: February 19 –May 20, 1996, Summary conclusion: September 1996, published in Liberation, January 1998). The interviews were done with elected politicians, high level civil servants, business and labor leaders, the media, and persons playing a leading role in the academic, cultural, religious life of their country. The number of interviews per member State was based on representation in the European Parliament. The fifth area of interviews addressed "priorities of the European Union in the next five years". "Crime and terrorism" were ranked third in importance for Top Decision-Makers, and second for the

general public. In addition, "ensuring that respect for the law and justice is upheld" ranked eighth for Top Decision-Makers, and fourth for the general public. These figures apply to Europeans and were not further broken down by member State.

The group IFOP-Gallup (France) did a survey on January 15, 1999 entitled "the French and urban violence." A sample of 801 people ages 15 and older responded by phone to the questionnaire. Respondents were asked,"Do you personally have the impression that violence has reached a level inconsistent with what has been previously known?" (exact quote from questionnaire, which might be restated as, "Do you have the impression that the level of violence is higher than what was previously assumed?). 82% of the respondents answered positively. When asked only 17% agreed violence is at a level comparable with preceding years (there was no response from 1% of those questioned). Sixty-three percent of the French think that unemployment and the shortage of work constitutes the principle reason why youth commit urban violence. Other reasons were given to explain violence in cities and suburbs:

Unemployment, the shortage of work for youth 63%

The resignation (apathy) of the parents 51%

Immigration 19%

The loss of civic values 16%

Weaknesses of the educational system 13%

The lack of action by the State 12%

The echo (coverage) made by the media 10%

The lack of action by concerned municipalities 7%

The weakness of the police 6%

No response 1%

In response to another opinion poll, it was found that 66% of the French believe that it is necessary to heavily reinforce the presence of the police to better secure volatile neighborhoods. Twenty-nine percent of the French are of the opinion that it is necessary to avoid too much of a police presence in order to limit tensions and provocations. When asked if the leftist government of M. Lionel Jospin is doing better than previous right-leaning governments in combating insecurity within communities regarding crime, opinion was divided. Thiry-three percent felt that security was better, 31% felt that security was not as good, and 23% believed that there was no difference (no response was given by 13% of the population).

A study published November 1996 by the State University of Leiden (The Netherlands) was entitled, "Towards a Eurobarometer of public safety." According to several previous opinion polls, urban crime and other forms of social disorder were among the most pressing concerns of the public in the European Union. At the time that the survey was done, there

was no available information comparing the level and trends of crime within the European Union. This created an obvious need to obtain the appropriate data by both policy makers and researchers. Within the European Union, legal definitions, reporting patterns and recording practices of the police vary greatly over time and place. This makes comparability difficult to achieve. This was a pilot study for the European Crime Victims Survey, modeled after the United Nations International Crime Victims Survey (ICVS). It was executed by International Research Associates (INRA) at the request of the European Commission as part of the Eurobarometer 44.3 in the beginning of 1996. The focus in this report was on perceptions of crime and drug-related problems. It covers the population of respective member countries, ages 15 and over, who are residents of each of the member states. The results of these two surveys are as follows:

Fear of street crime; percentage of public feeling a bit or very unsafe when walking in their own area after dark (in 1996) in the EU and per member country (n=16,235)

European Union 32%

France 29%

Germany (east) 60%

Germany (west) 34%

(Sources: INRA (1996), Eurobarometer 44.3)

Personal exposure to drug-related problems in the past 12 months in the EU and per member countries (n=16,235); % "often or from time to time"

European Union 14%

France 12%

Germany (east) 4%

Germany (west) 13%

(Source: INRA, 1996/Eurobarometer, 44.3)

It is important for policy making to understand what are the most important determinants of the public's fear of crime The fear of street crime is a combination of the existing threat of actual violence and the vulnerability factor in explaining the distribution of fear across the public The fear of crime is often related to the perceptions of "incivilities" or other forms of social disorder in one's area, given social and environmental cues to danger such as loitering teenagers on street corners, tramps and beggars on the streets, graffiti, strewn litter, abandoned houses and broken windows. In the European context, the presence of a visible, local drug scene might also be a source of feelings of unsafety. The three most strongly related factors related to fear of street crime were (in order):

gender (though actual victimization rates for robbery or attacks are not higher for women), place of residence (those living in urban areas are more likely to feel unsafe), and actual exposure to drugs and violent crime. When this analysis was repeated for each of the EU member countries separately, the distribution was largely the same. It is probably worth mentioning that feelings of unsafety are particularly widespread in most of the European countries in transition, including the new states of the Federal Republic of Germany. Feelings of fear are the strongest among the more vulnerable factions within the public (women, the elderly and the socially marginalized) [Eurobarometer, The Netherlands, 1996].

Conclusion:

In France, public opinion is more often expressed through the intermediary of elected officials, than in Germany where representation has more opportunities to be direct and by a wider variety of factions. In France, the sentiment was expressed in several interviews that public opinion is not necessarily and educated viewpoint, as it is often overly emotional rather than knowledgable. In Germany, it was acknowledged in interviews that though public opinion might be opinionated, it is part of the democratic process and in that capacity must be voiced, respected and taken into

consideration in decision making (carry weight)

Hypothesis #3

The process of policy making in Germany is more complex due to the open nature of the system, while in France the policy making process is simpler due to the closed nature of the system.

Introduction

In response to this hypothesis, information evaluating the impact on the system from the environment is presented. The data will indicate influences on policy making. One aspect of evaluating the complexity of a system is to determine how removed or "distanced" the public is from the policy making process, their actual level of input (weight), and to what extent that input is considered when policy decisions are made.

France

One-sixth of the French population live in Paris (10 million people, the total population of France is around 60 million). By virtue of the fact that so much of the population lives in Paris, and because everything is done through Paris, it is a nucleus for centralization. Therefore, Paris becomes the center of France by default, whether the system is centralized or not.

The existence of local councils (evidence of decentralization efforts) does not imply automatically that they act in ways that are different from how the central government might act. In every case, all legislation regarding juvenile justice still comes from the central government.

According to Ms. Picot, while internal debates are taking place and until the central government takes a position on an issue, it is not appropriate for the DPJJ to respond publicly by expressing a position on anything. As far as the elements that influence the development of legislation are concerned, they uniformly affect the whole country. Each district does have a kind of influence on how policies are implemented on the local level, which might be influenced by an area being a rural versus an urban environment, and the types of problems that are encountered on a local level. That local influence is evidence of decentralization within the French system. Whereas there are basic principles embodied in legislation that do not change, specific measures still have to be taken to respond to the ways that societies evolve. For example, people do not live the same way when there is full employment as when there is unemployment, or when there is stability versus a crisis. This is also the case when one lives in a multi-cultural society versus in a homogenious one. There are some aspects of life that one must bear in mind, but the basic principles must not change (interview, Ms. Picot, 5/29/98).

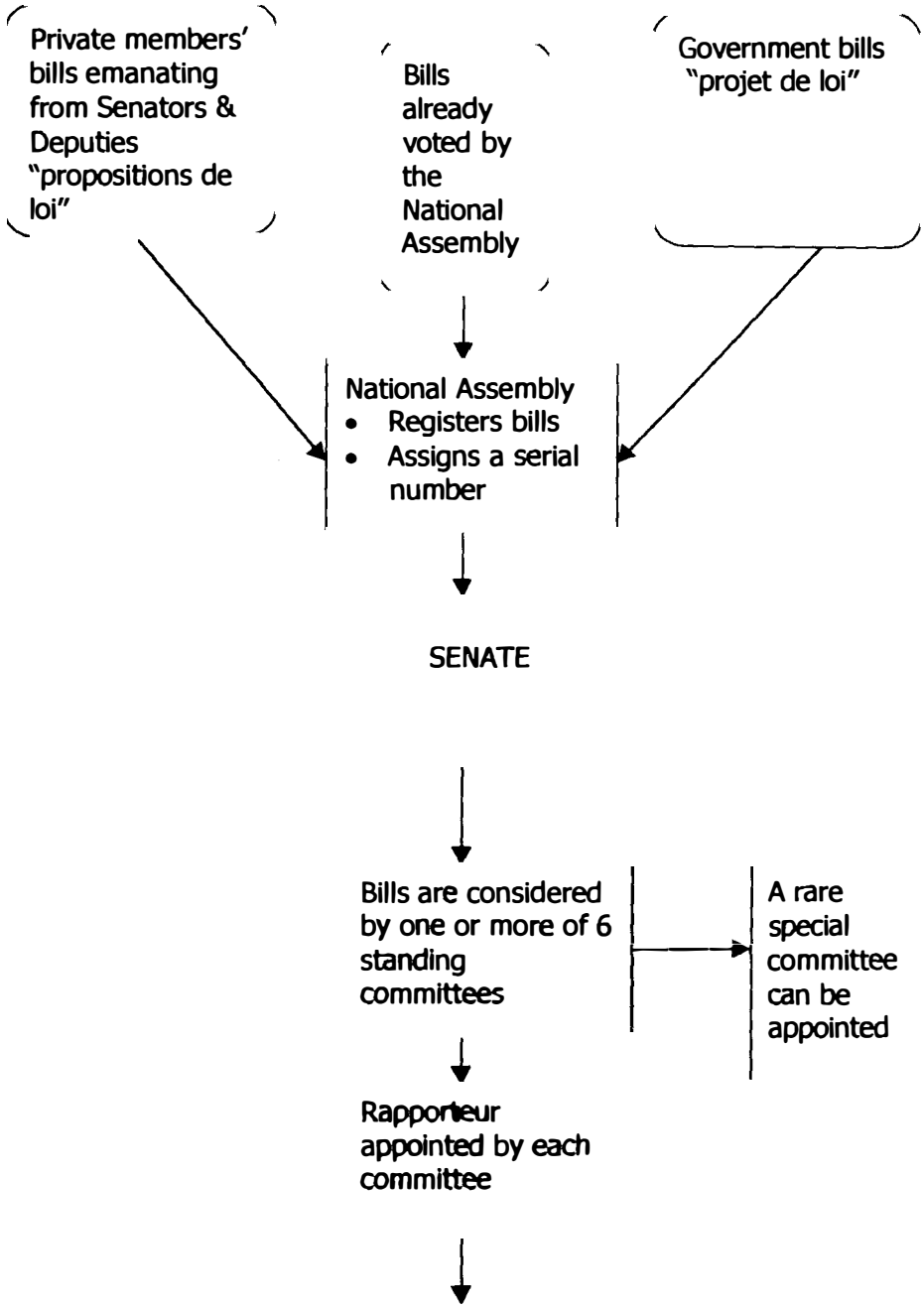
An overview of the French legislative system is outlined below and illustrated by the flowchart, Figure 2, shown on pages 258a-d. There are also two exceptions that allow for shortcuts to be used to simplify and hasten the legislative process. The French legislative challenge is to maintain a system that is efficient and respects timeliness without sacrificing justice.

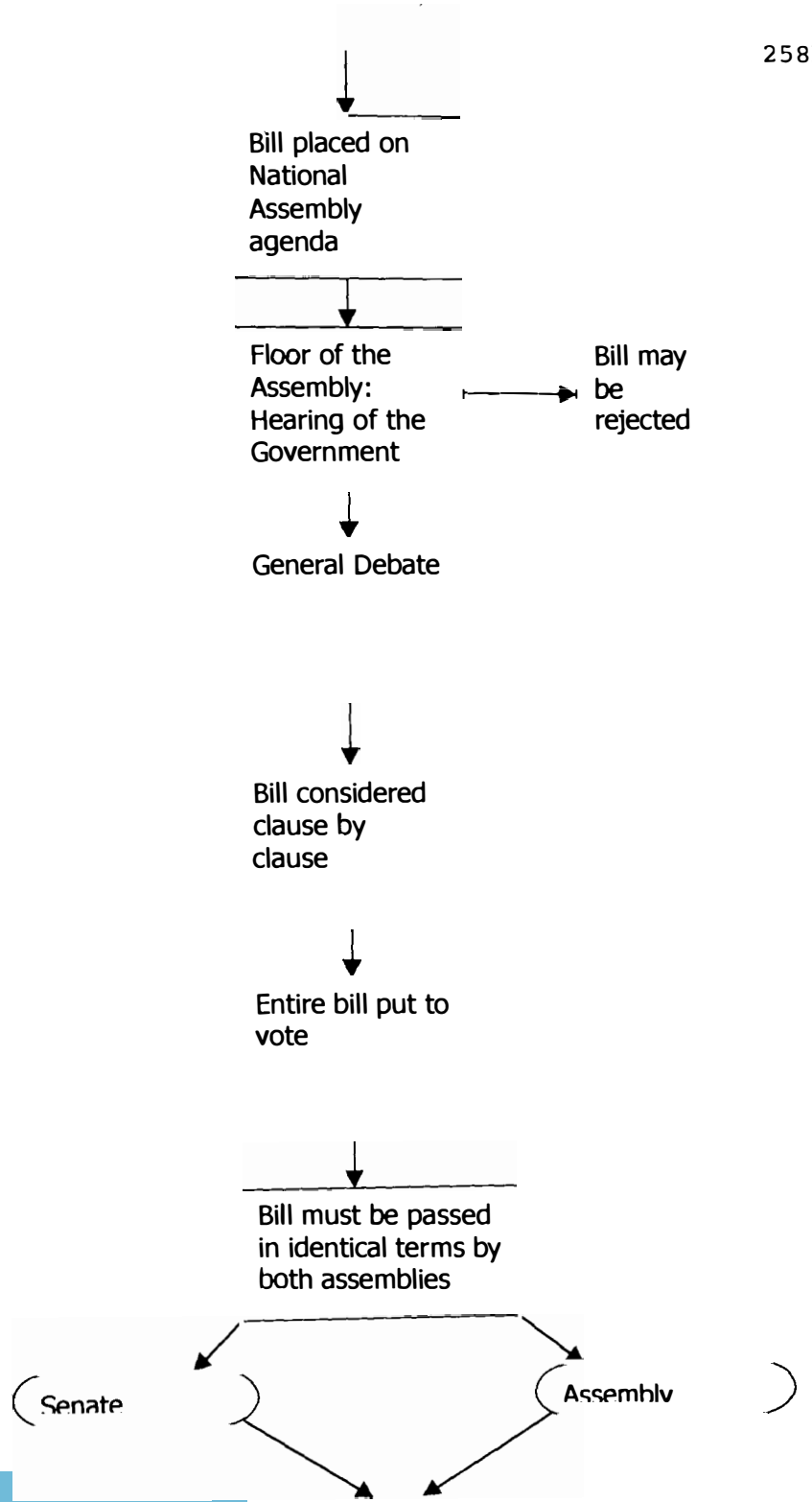
1. The legislation is initiated: (private member's bills must be those which would neither increase public expenditures nor diminish public resources).
2. The bills are then considered in committee(s)
3. Inclusion of matters on the agenda
4. Consideration on the floor of the Assembly
5. Final text of bill is developed and approved

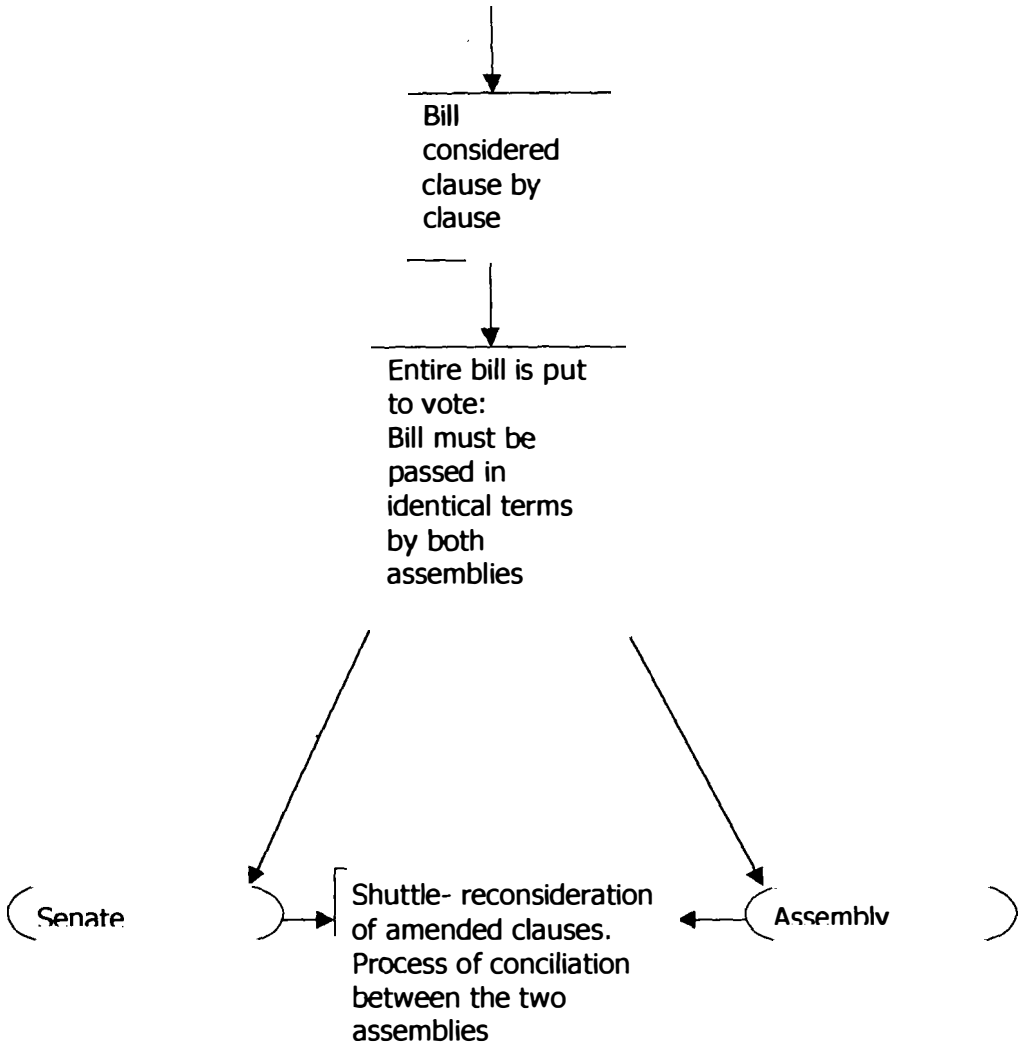
Germany

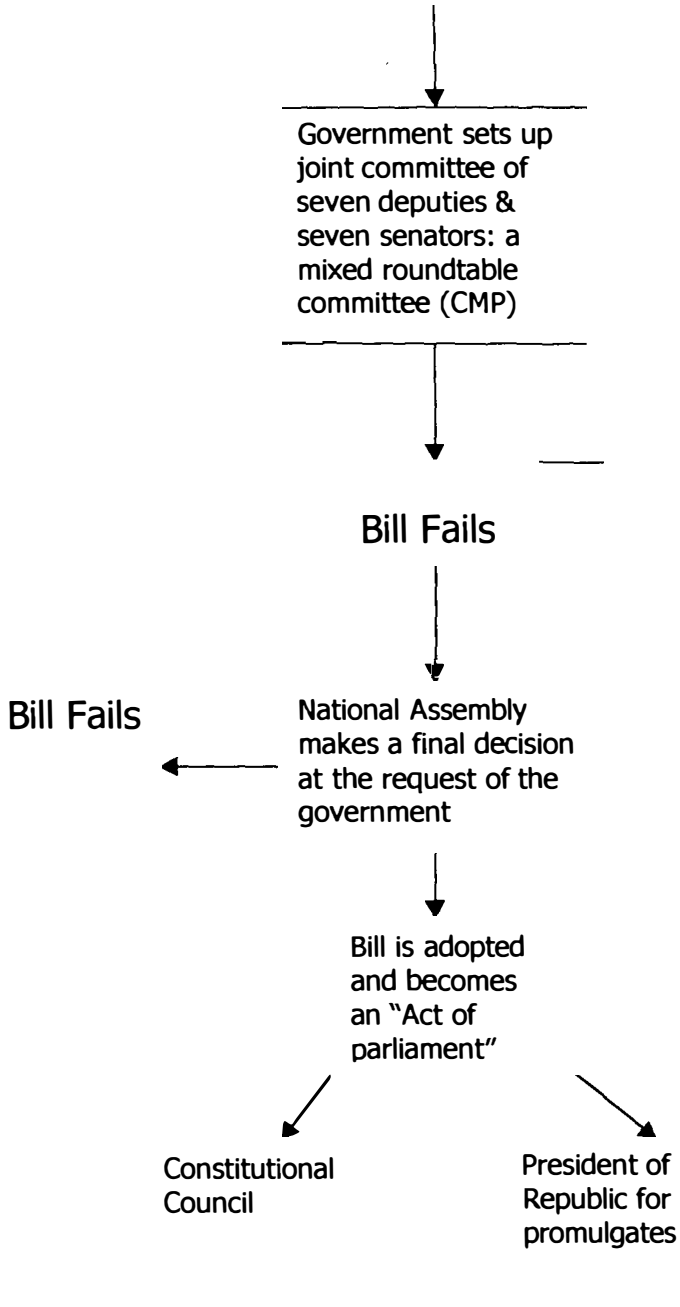
Criminal laws are made on the federal level. The State only can influence legislation by introducing a bill in the Bundesrat and then passing it on to the federal level. The bill then goes to both houses to be ratified. The Governor alone can not do anything to pass a bill. He needs the support of the legislators. According to Mr. Eckert, the parties have influence over the Bundesrat that is both indirect and direct. The State can go through the Bundesrat to introduce change at the federal level. They do

Figure 2: French legislative procedures




Bill placed on National Assembly agenda
Floor of the Assembly: Hearing of the Government
Bill may be rejected
General Debate
Bill considered clause by clause
Entire bill put to vote
Bill must be passed in identical terms by both assemblies
Senate
Assembly


Bill considered clause by clause
Entire bill is put to vote: Bill must be passed in identical terms by both assemblies
Senate
Shuttle- reconsideration of amended clauses. Process of conciliation between the two assemblies
Assembly


Government sets up joint committee of seven deputies & seven senators: a mixed roundtable committee (CMP)
Bill Fails
Bill Fails
National Assembly makes a final decision at the request of the government
Bill is adopted and becomes an "Act of parliament"
Constitutional Council
President of Republic for promulgates

this when they realize that a law is impractical. At the State level, most of the work is administrative (interview, Mr. Eckert, 5/19/98).

According to Dr. Goetz, the Ministry of Justice proposes policy in Germany. The Ministry of Justice can propose policy to the State government as represented by a legislator. An individual legislator can propose a bill, but all legislators have to agree on it or it never proceeds to the federal level. Legislators vote according to how the parties advise them to vote; this applies to everyone in the party. There are differences between the position the parties take with regard to juvenile crime. For example, the CDU doesn't want the penal code applied to youth, as the more Conservative Party may wish to have happen. Technically, however, this is a violation of the constitution that advocates, "vote your conscience" (interview, Dr. Goetz, 5/20/98).

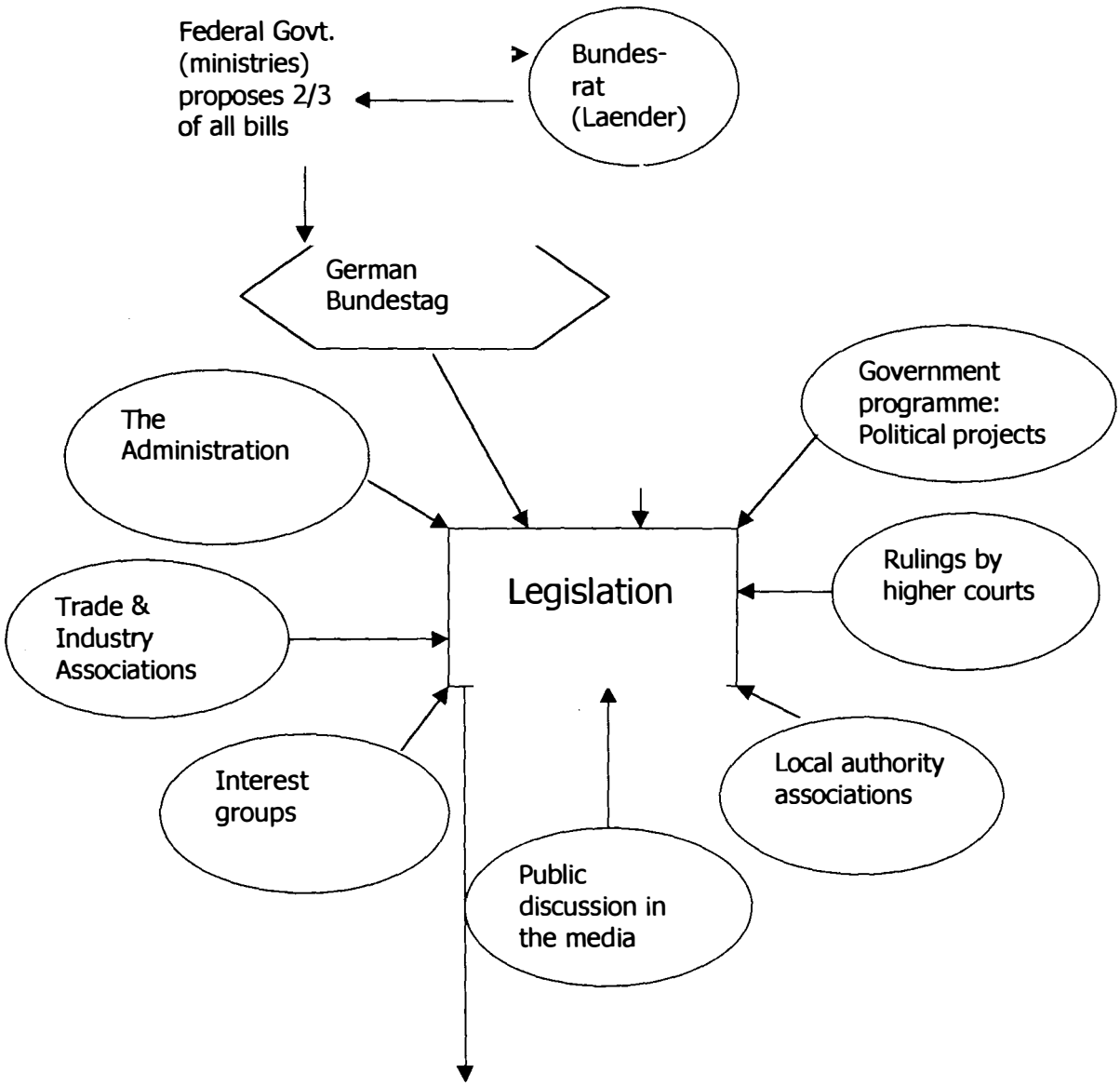
Mr. Ehrhardt explained that a bill has to be passed into federal law before any State can act on it. The prosecutor's office (at the regional superior court [Landgericht], having original and appellate jurisdiction in civil and criminal cases) is subject to directions from the Chief State Prosecutor at the Supreme Court of the State (Oberlandesgericht), who in turn is subject to directions from the Minister of Justice. In theory, it is possible to effect changes through these avenues In practice, the head of a department determines policy (interview, Mr. Ehrhardt, 5/22/98).

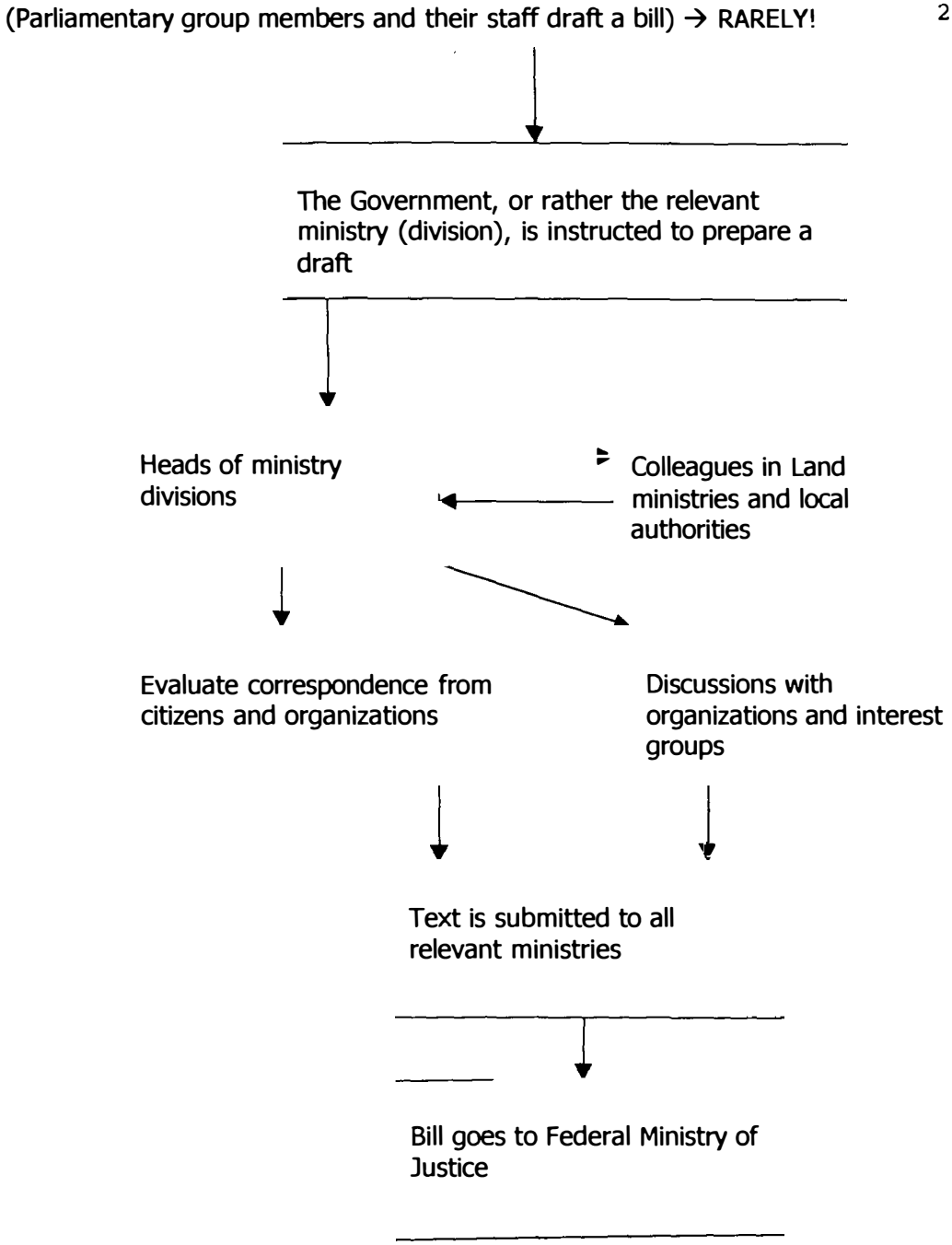
A German social worker commented, "Youth are criminals that have no lobby" (interview, Ms. Haas, 5/19/98). She felt that social workers in the system should create an awareness of policy, question why the policy exists, and advocate for change when necessary.

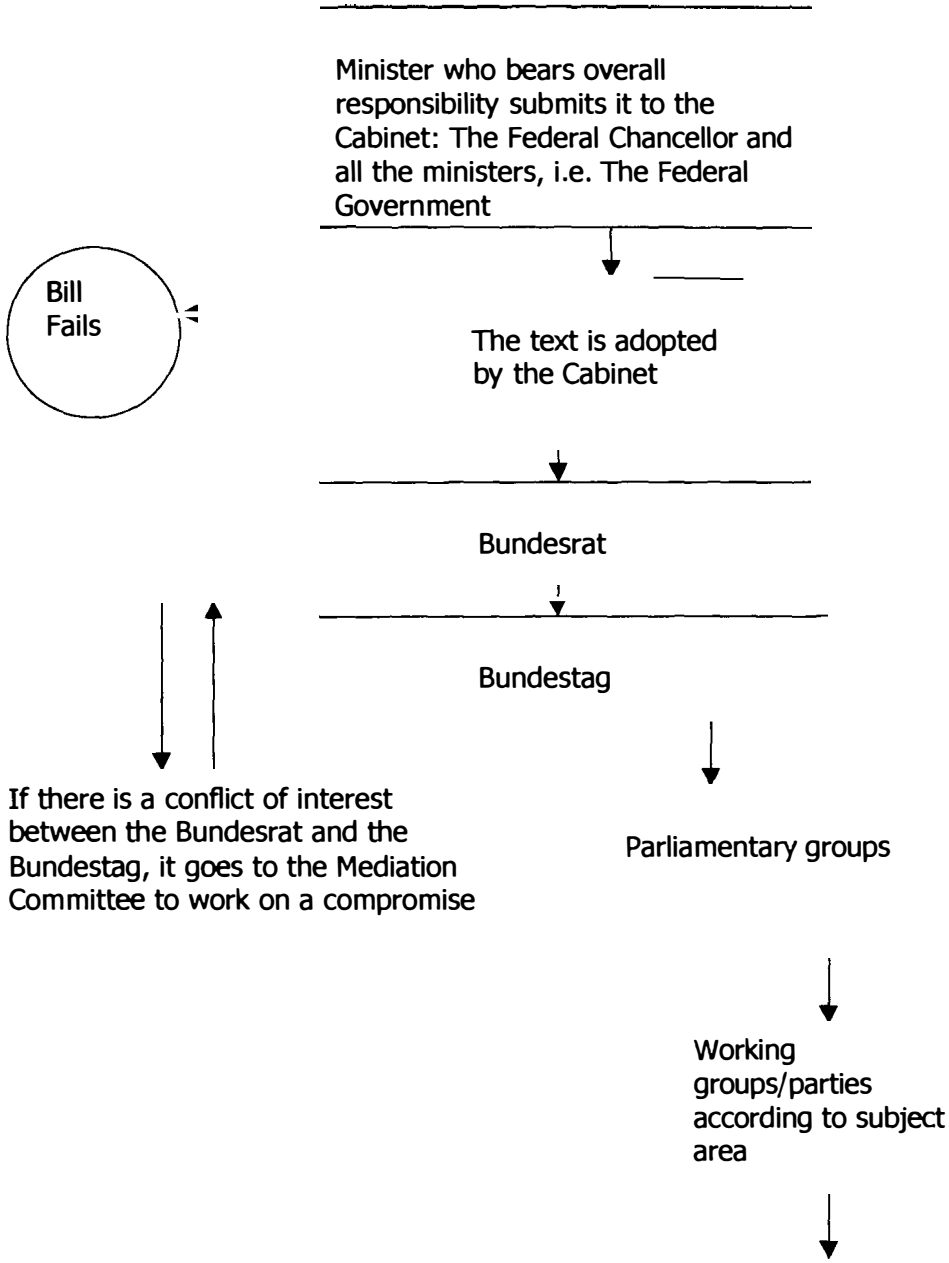
The German legislative system is more procedurally complex by comparison (see flowchart, Figure 3, pages 260a-g,). Of the materials distributed by governmental presses, the German texts delve into greater detail when outlining the potential sources of external influence on the German legislative process.

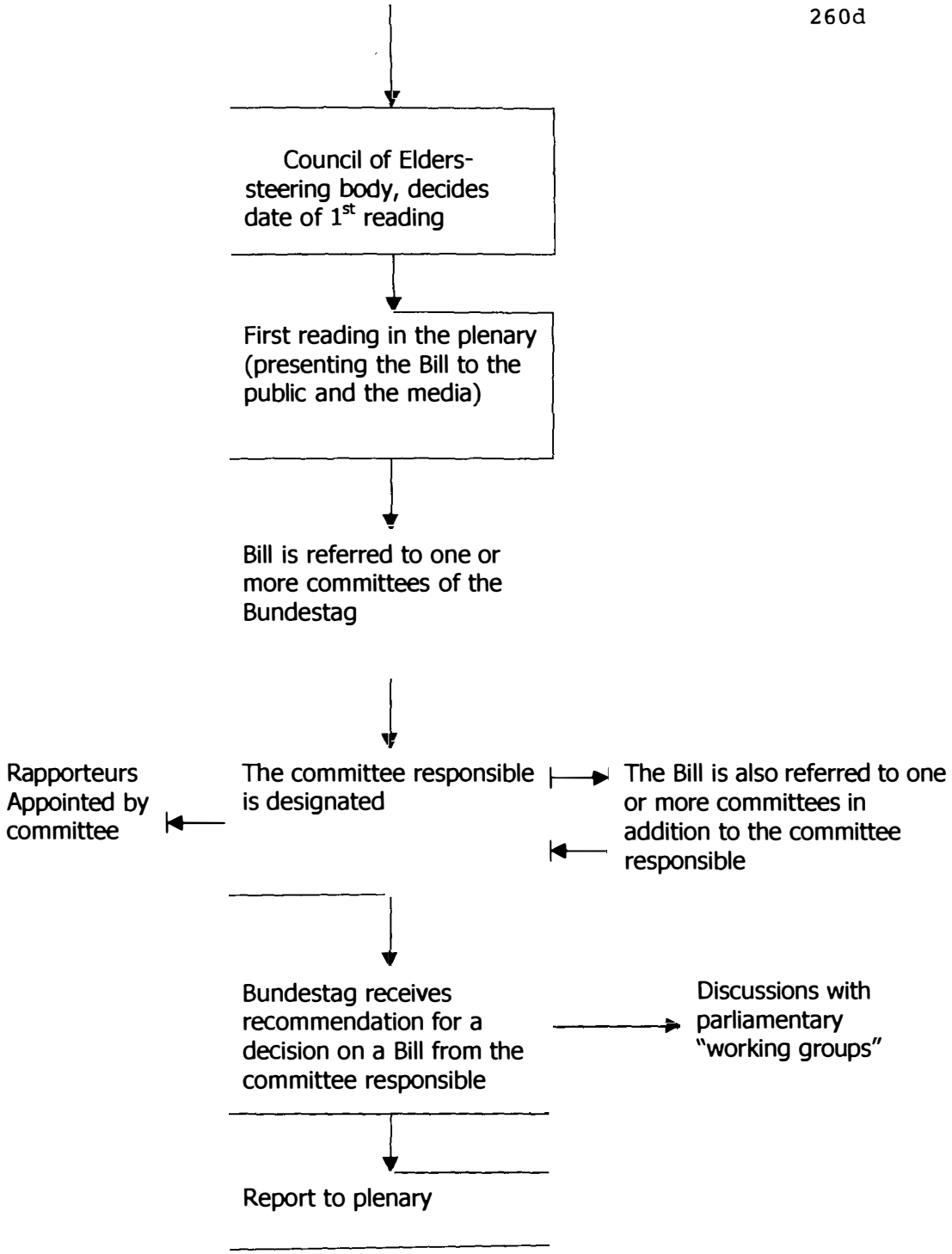
Evidence of the "openness" of the German system is revealed in the legislative process of that country. The materials printed by the German government stress the inclusion of public opinion into the legislative process via a consideration of correspondence from citizens and organizations. Discussions with organizations and interest groups are highlighted as a "step" within the considerations of bills, as are public hearings held with experts and representatives. Multiple readings (3, sometimes 4) in the plenary creates multiple opportunities for debate and the revision of and/or amendment of clauses within the text under consideration. There are frequent referrals to the use of mediation via a mediation committee in the German legislative process (though mediation is also an accepted intervention in the French legislative process) (Schick

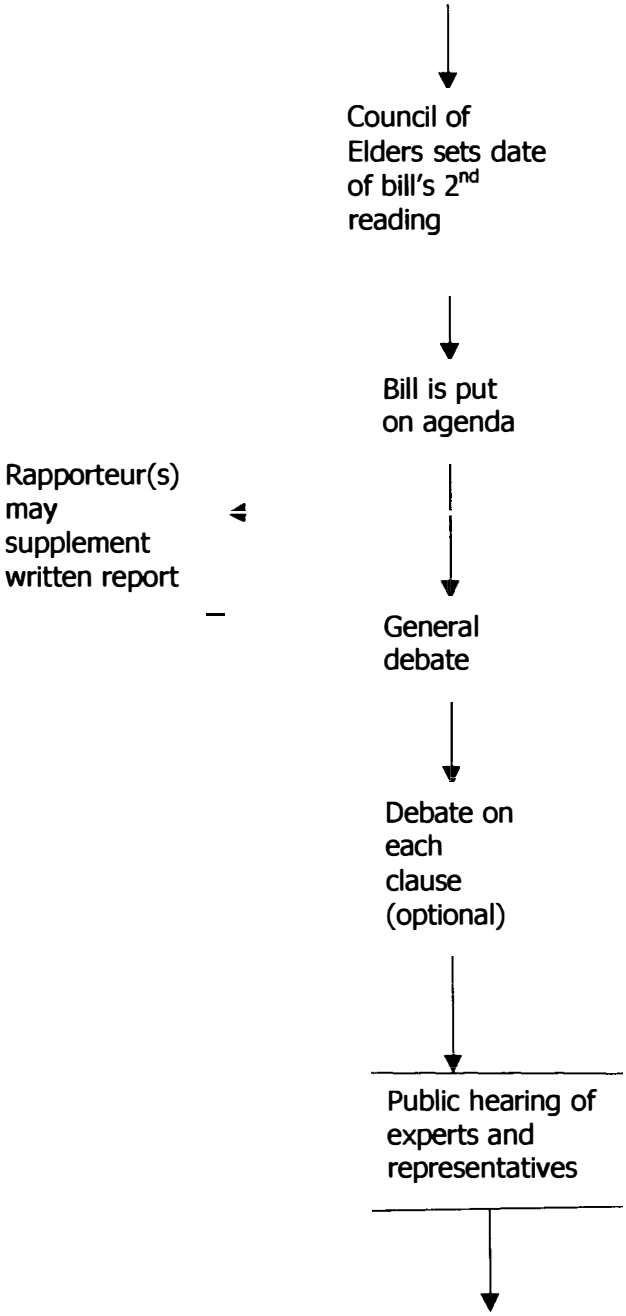
Figure 3: German legislative procedures

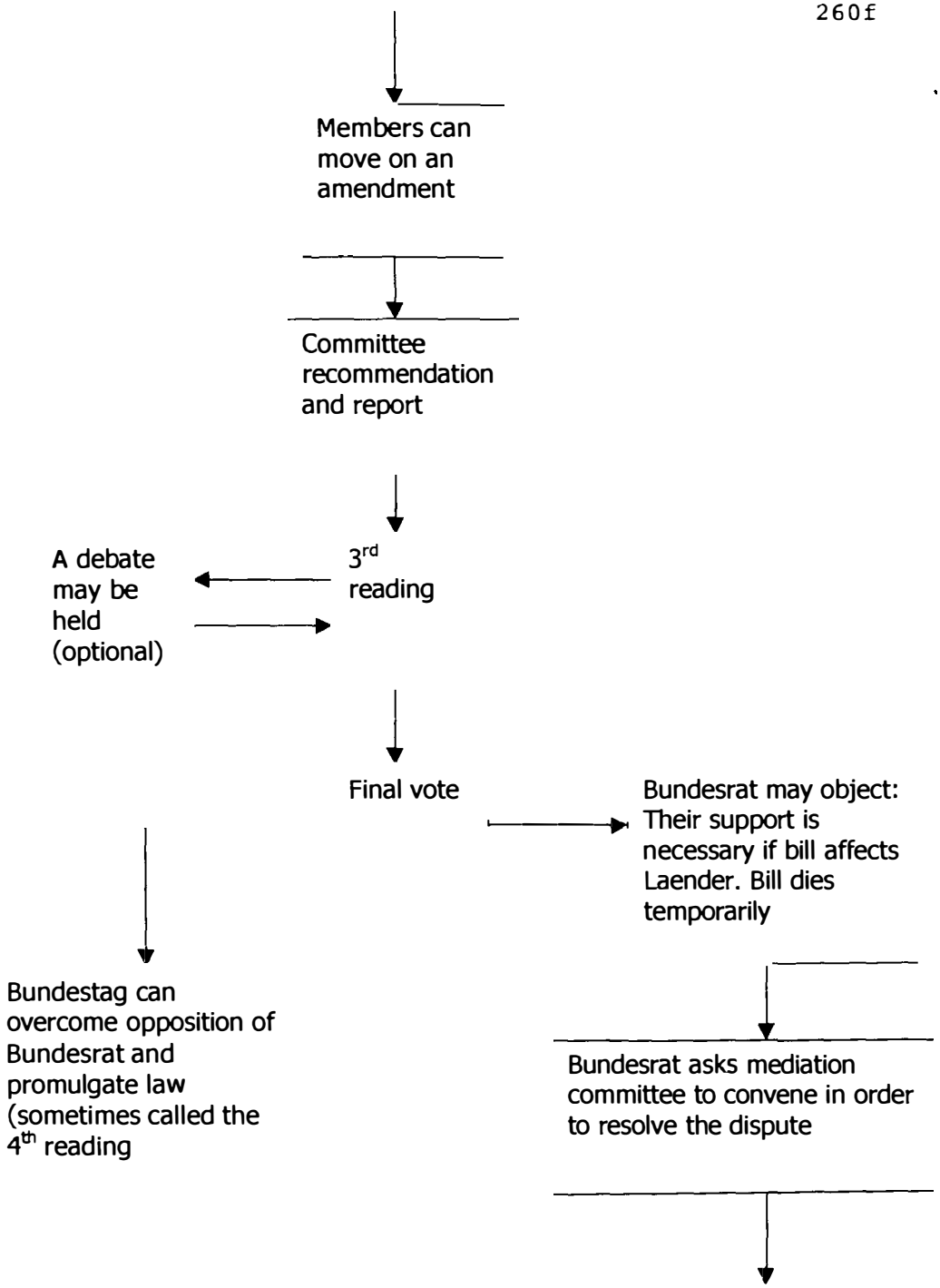


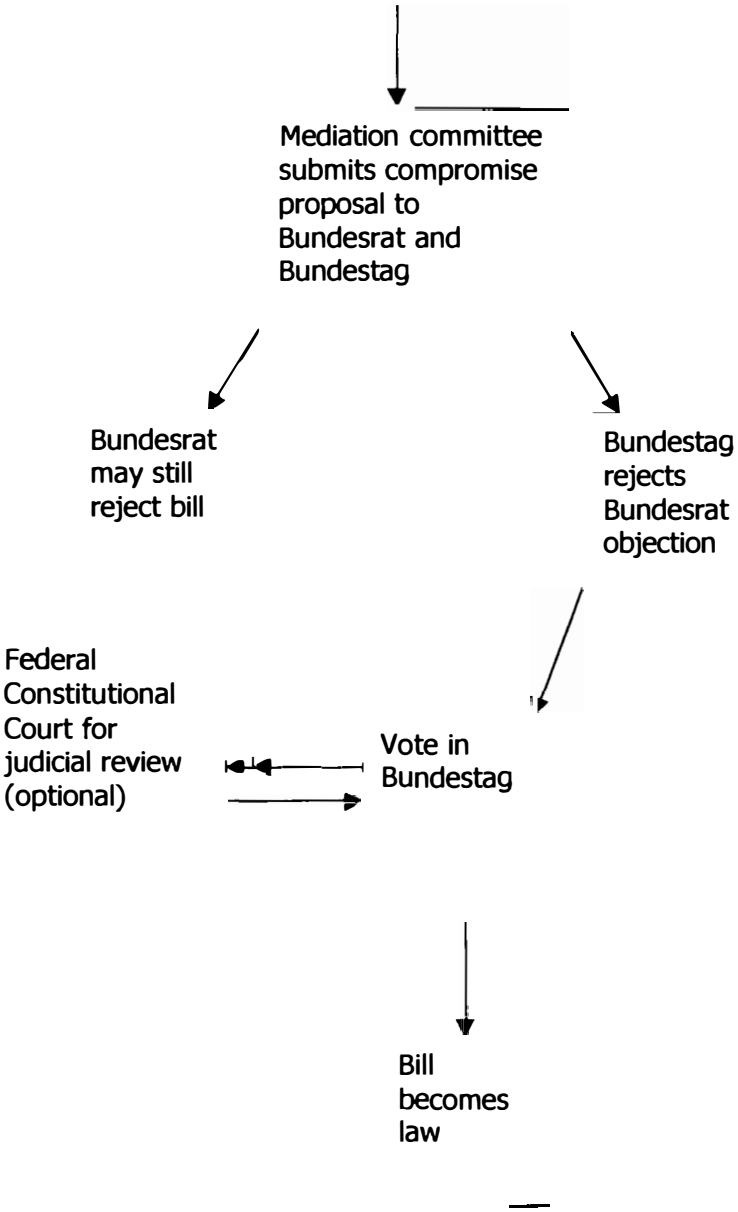

(Parliamentary group members and their staff draft a bill) → RARELY!
The Government, or rather the relevant ministry (division), is instructed to prepare a draft
Heads of ministry divisions
Colleagues in Land ministries and local authorities
Evaluate correspondence from citizens and organizations
Discussions with organizations and interest groups
Text is submitted to all relevant ministries
Bill goes to Federal Ministry of Justice


Minister who bears overall responsibility submits it to the Cabinet: The Federal Chancellor and all the ministers, i.e. The Federal Government
Bill Fails
The text is adopted by the Cabinet
Bundesrat
Bundestag
If there is a conflict of interest between the Bundesrat and the Bundestag, it goes to the Mediation Committee to work on a compromise
Parliamentary groups
Working groups/parties according to subject area


Council of Elders- steering body, decides date of 1st reading
First reading in the plenary (presenting the Bill to the public and the media)
Bill is referred to one or more committees of the Bundestag
The committee responsible is designated
Rapporteurs Appointed by committee
The Bill is also referred to one or more committees in addition to the committee responsible
Bundestag receives recommendation for a decision on a Bill from the committee responsible
Discussions with parliamentary "working groups"
Report to plenary


Council of Elders sets date of bill's 2nd reading
Bill is put on agenda
Rapporteur(s) may supplement written report
General debate
Debate on each clause (optional)
Public hearing of experts and representatives




Mediation committee submits compromise proposal to Bundesrat and Bundestag
Bundesrat may still reject bill
Bundestag rejects Bundesrat objection
Federal Constitutional Court for judicial review (optional)
Vote in Bundestag
Bill becomes law

and Zeh, 1997).

There are certain observable differences between the French and German legislative systems. The French legislative system more frequently considers the proposal of private member's bills (these must neither increase public expenditures nor diminish public resources, as previously stated) to be introduced by its Senators and Deputies. Secondly, the French system also provides for two exceptions that essentially allow for shortcuts to be used to simplify and hasten the legislative process

Conclusion:

There are more groups involved in the legislative process in Germany as opposed to France (i.e. more external influences to the legislative process). There are also more venues and opportunities for mediation and debate in the German legislative process. Thus, the evidence indicates that the larger number of steps in the legislative process, the larger the process (more procedural complexity). Therefore, the legislative process in an open system is more complex, while in a closed system it is a simple process.

Hypothesis #4

In Germany, juvenile justice policies are more preventive due to the open system view of human nature, while in France juvenile justice policies are more punitive due to the closed system view of human nature

France

From a systems theory perspective, *France* represents a closed system, as is expressed in the initial inquiry statement. The closed system view of human nature holds that humans are lazy, bad and evil. Closed systems theorize that the best way to deal with these weaknesses is by assuming an authoritarian approach. According to the closed system view of human nature, people are characterized as independent and autonomous. Within an organization, for example, people relate by way of rank and/or role. People are seen as rational, and rigid, and relate to each other in a mechanical and impersonal manner. The administrative bureaucracy functions as an entity separate from society and its citizens (Chandler and Plano, 1988; Scott, 1992).

It might seem most likely that a closed system would adopt a punitive approach to juvenile crime. However, the French commitment to education and prevention contradicts this assumption. The commitment to education and prevention actually leads to the creation of new plans and actions in the French system.

The French believe that one should not discipline children under seven years old. In this sense, young children are not held responsible for their actions. Many French parents will allow their adolescent children to go out of the house without interogating them as to their whereabouts. The

intention of French parents might be to extend trust and a sense of independence to youth as a way of teaching them to assume responsibility for their actions. Parents tend to think that if the children are not caught in the act of committing a crime, then it is as if it didn't happen (i.e. "out of sight, out of mind" Personal communication, Mariel Pertegas, 5/28/98). However, French parents are likely to ignore anti-social behavior displayed by youth until it is brought to their attention by the authorities, and they can no longer deny it (Personal communication, Mariel Pertegas, 5/28/98; interview Ms. Boissinot, 9/14/98).

French policy is imbued with a moralistic approach that teaches education through religious training. This is probably the influence of France being largely a Catholic country and is quite authoritarian.

Over time there has been a movement within the French system to move from the use of confinement (by way of closed structures such as prisons), to the use of open structures such as home detention and open foyers. According to Ms. Boissinot, this movement is a result of the influence of developments in the social sciences and new solutions to dealing with troubled youth as brought forth by research in the area of psychiatry and psychology (interview, Ms. Boissinot, 9/14/98). These developments overshadowed the response that otherwise might have come from a closed system, given the closed system view of human nature and its

punitive approaches to addressing acting-out behaviors. Thus, the French respect for education seems to override the characteristic closedness that the French system typically presents. The French value the arts and cultural and social development over work ethic, believing that developing in minors an appreciation for what is essentially French is the most effective deterrent of crime (minutes, Municipal Council for Youth, Lyon, France, December 12, 1996; June 24, 1997; December 11, 1997). They believe that youth who possess an appreciation for their culture are less likely to act out against it. The developments in French juvenile justice policy (amendments) which were to follow the development of the original policy were spawned by

- Changing relationship of a youth to family and community
- Lack of money, which created a need for innovations in the area of financial and human resources
- Experimental State Educational System
- Educational innovations in working with youth
- Involvement of both private and public partnerships
- New approaches to the theory of rehabilitation
- Variation in reparative projects
- Partnerships between various sectors within the community, (e.g. local government, mental health agencies, mayor's office, local safety

council, police, etc.)

- Staffing innovations, counselors working closely with youth, consistency in matching staff with youth
- Identification of potential cooperative efforts directed at youth rehabilitation
- Focus on pro-active preventive measures
- Prevention and intervention include social programs, the arts and sports activities
- Associations for the protection of youth and adolescence were formed (interviews Mr. Velu 5/28/98; Ms. Picot 5/29/98; Ms. Boissinot 9/14/98)

In 1945, when the original policy was written, the supervision of a juvenile delinquent focused on the child and parent. In this earlier time, French families were extended families, where several generations and branches of a family lived in the same household. Today two-parent and single parent households have largely replaced this model. Now the courts try to take into account the child's peers, the other children in the neighborhood. The current effort is to take into account the whole of the child's environment. This new definition of the "extended family" (i.e community) provides an important source of social control (interview, Ms. Boissinot, 9/14/98).

The preventative choice is chosen over punishment due to the understanding of child development that has emerged from adolescent psychology and psychiatry. The preventative choice is favored due to the fact that the minor has a personality that has not been fully constructed. If the youth commits anti-social acts, the responsibility rests with the people who are responsible for his/her education (in French, this refers to both learning and upbringing) that is, parents, family, society, and school (i.e. those who have failed in their mission). This lack of appropriate education and upbringing has caused the youth to be dysfunctional (interview, Mr Velu, 5/28/98). Other dysfunctions can occur as problems of behavior or mental and psychological troubles. The juvenile justice system focuses on the lack of education the youth has received and not on the acts. If only the social aspect of the problem is treated, the problem remains unchanged because once the minor has served his/her sentence, he/she is in the same state of mind as he was before and the anti-social behaviors reappear. Ms. Picot commented that anti-social behaviors are assumed to be a distinctive feature of the adolescent crisis. This, however, seemed to be a less prevalent view in France than in Germany, where this attitude was expressed repeatedly. Anti-social behaviors are viewed within the context of youth testing their limits by trying to go beyond the law. After an illegal act has been committed, the goal is for the youth to realize that they have

exceeded the limits, that this is wrong and is forbidden, and that it is impossible to continue to live in that manner (interview, Ms. Picot, 5/29/98).

Under scrutiny today is the potential removal of the minor, for a certain amount of time, from his environment where he/she has committed anti-social acts. Professionals must work with the youth's natural environment while he/she is removed from their school and neighborhood. Otherwise, when the youth does return home, nothing will have changed and can, in fact, be worse.

There have been recent debates both among public and the Ministries to evaluate the Ordinance of 1945 to determine if the legislation should be more repressive. It was decided that the policy allowed leeway to incorporate repressive measures, when and if necessary, but should remain essentially educational in nature (interviews, Mr. Velu, 5/28/98; Ms. Boissinot, 9/14/98).

Germany

Whereas France is representative of a closed system, *Germany* represents an example of an open system. The open system view of human nature characterizes humans as being industrious, interested in pursuing personal goals, thriving on interaction and teamwork, flexible and is ever

evolving. The open system theorize that the best way to work with these characteristics is by utilizing a consensus driven, shared authority that promotes system survival. Preventive initiatives seem to be more congruous with the open systems view of human nature.

The punishments for crimes involving bodily harm or weapons in Germany have become stricter, as the minimum went up from three to six months of incarceration (interview, Mr. Ehrhardt, 5/22/98). This was an immediate political response to an increase in the rate of violent crimes. A loophole in the system exists in reference to less serious cases or for first-time offenders. In these cases, the sentence can still be lowered to a minimum of three months (interview, Mr. Ehrhardt, 5/22/98). There is a disagreement among parties as to how to best deal with serious crimes (interview, Dr. Goetz, 5/20/98). The meaning of punishment for the Germans also questions whether punishment should be interpreted as leading a crime-free life or resocializing the offender. For lesser crimes, most people agree that the punishment should be minimal and that various factions of the system should work together to develop effective methods of dealing with petty crimes (interview, Mr. Ehrhardt, 5/22/98). In the case of serious crimes however, the conservatives want to enforce adult penal codes while the liberals want to keep the focus on education. Some in the system criticize incongruities noting that the lesser crimes receive the

greater penalty (interview, Ms. Haas, 5/19/98). The confusion seems to exist with regards to philosophy: whether it is better to sentence harshly the first time (usually involving younger minors) in hopes of preventing later infractions, or lean more towards education with first-time offenders, hoping that approach will avoid future problems. This disparity is viewed by some in the system as being unjust and unfair. There is also some disagreement about when to begin to educate youth about the effects of violence for the community, the offender and the victim. Ideally, most agree that this education should begin before offenses occur, before the crime is committed, not after the damage has been done (prevention). Education involves decision making regarding how to distribute resources between prevention and intervention efforts.

Philosophically, there is disagreement and misperception among the public regarding punitive measures, that is, the notion that the higher the sentence, the higher the deterrence. Laws and measures are there to influence people's behavior: to persuade them to stop committing crimes. Changing laws does not necessarily change behavior; therefore, stricter laws and longer sentences do not necessarily decrease the crime rate (interview, Mr. Eckert, 5/19/98). Preventive measures have been criticized as bandage for the symptoms, but having no crime deterring influence. Those that philosophically agree on preventive measures, disagree on how

they should be implemented From ages 18 to 21, there is a tendency to use youth law more and adult law less, thought this is supposed to be the exception. More often than not, the exception becomes the rule (interview, Mr. Eckert, 5/19/98).

The effectiveness of a policy is hard to determine because what usually are publicized are those cases in which it did not work. Preventive measures do not produce quick results. The results may not be seen for another ten years. The judges believe that you have to change the youth's environment to change anything The preventive approach, which is primarily an educational approach, is a slow process.

Germany implements more diversions to juvenile incarceration (including victim-offender mediation; community-based programs are used as an educational approach to juvenile justice) than do the French. Diversions are used as an alternative to forms of punishment.

Central to the administration of justice in the German juvenile justice system is establishing whether there is a chance for further development in the perpetrator. A youth's stage of development is determined by consulting with psychiatrists and other professionals and gathering evaluation materials. Germany waits for all of the background information and history, which is why it takes so long to prosecute cases. This is not always justified It could be done in a shorter, quicker process,

but the judge feels that he needs all of the background information to make a reasonable decision interview, Mr. Eckert, 5/19/98). The French juvenile justice system allows the judge to use his/her own discretion in determining how much information is necessary to render a final court decision regarding a youth. Essential to the German judge's determination is the establishment of a youth's maturity level. It is felt that some people have the capacity to mature after the age of 18, while some people will not mature after the age of 15. This is why the court takes so much time to gather historical background information on the youth and their family environment. The 18 to 21 year olds are supposed to be treated as a youth only as an exception, but it is done more and more as a rule, because the youths in that age bracket who arrive in court are so immature.

Conservative administrations tend to favor "law and order" models, while Socialist administrations are more likely to support treatment modalities. Helmut Kohl, who served in office as Chancellor (head of government) from 1982 to 1998, was a Conservative. His successor, Gerhard Schroeder (elected 1998) is a Socialist. Thus, during a twenty-year period, there has been evidence of political consistency in the German government until recent years. In contrast, the French have made frequent changes between Conservative and Socialist governments over the same time period. During the last twenty years, The office of French Prime

Minister (the head of government, who also has the power to propose new laws) has changed nine times, alternating between Conservative and Socialist candidates. To compare the Kohl and Schroeder terms in office with their French counterparts, refer to the chart below:

French Prime Minister/year appointed to office/party affliation

Pierre Mauroy, 1981, Socialist

Laurent Fabius, 1984, Socialist

Jacque Chirac, 1986, Conservative

Michel Rocard, 1988, Socialist

Edith Cresson, 1991, Socialist

Pierre Beregovoy, 1992, Socialist

Edouard Balladur, 1993, Conservative

Alain Juppe, 1995, Conservative

Lionel Jospin, 1997 (to present), Socialist

(Source http://www.atmedia.fr/corbieres/presid2.htm, 7/5/1999)

Conclusion:

French juvenile justice policy has been influenced by

1. Socialist politics as opposed to Germany's history of Conservative politics over the last twenty years
2. The influence of the social sciences

3. New research in the areas of psychiatry and adolescent psychology
4. A restructuring of the juvenile justice system on the local level making it more decentralized
5. Changes in family structure
6. From a historical perspective, the French policy was written at a time when youth were needed to rebuild the country. The emphasis was on youth re-entering society and less on incarceration.

All of these factors are indicative of France moving towards a more open society. Interestingly, there are actually a significantly higher number of references made to punishment in the German juvenile justice policy.

Chapter 5

I. Summary and conclusions

1. The data collected as a result of this study seems to indicate that the relationship between policy change and media coverage is strongly related in both France and Germany.
2. Public concern over juvenile crime in France seems to have the greatest influence on the *implementation* of policy rather than on policy *development*. The research indicates that in Germany, public opinion has a decided influence on the *formation* of public policy
3. The evidence seems to indicate that the process of policy making in Germany is more complex due to the open nature of the system, while in France the policy making process is simpler due to the closed nature of the system.
4. The evidence indicates that the French juvenile justice policy is as prevention-oriented as the German policy, in spite of France being characterized as a closed system.

Hypothesis 1

Policy changes and media coverage is more strongly related in Germany than France due to its being an open system while France is a closed system.

Summary of the findings

There seems to be enough evidence, with little rebuttal, to point to a definite relationship between policy change and media coverage. German media acknowledge a symbiotic relationship between bureaucracy and society. There is more of a presence of informational press that assumes the joining of the State with civil society. Most people internal and external to the juvenile justice system seem to think that the media coverage of juvenile justice issues is consistent and frequent. Most people interviewed believed that the system is changing and attributes this change to public pressure and increasing media attention. Furthermore, this supports the media intention to provide the masses with information that is useful for society. The German press influences public perceptions due to their coverage of juvenile crimes. This coverage influences public opinion as revealed by polls.

The dominance of yellow press in France, though offset by outliers such as Le Monde and Le Figaro, contributes to the closedness of the press in that society. The yellow press assumes a division of the State from the civil society. It views bureaucracy as separate from society and its citizens. The yellow press takes the position that events are beyond amelioration through policy intervention and social change. People internal to the

juvenile justice system believe the press has widely covered the issues of juvenile justice and juvenile crime, while citizens acknowledge the periodic appearance of "special editions" or "supplements" in newspapers devoted to issues of juvenile justice/crime.

It is interesting to note that historically, France has had much more coverage during times of their "social revolutions" in juvenile justice policy making than Germany (see Table 6, page 240a). This contradicts the characteristics commonly associated with the open/closed dichotomy, as might be seen today.

Hypothesis 2

Public concern over juvenile crime is highly related to public policy formation in Germany due to the openness of that system, while in France it is less so due to the closedness of that system.

Summary of the findings

In France, public opinion has the greatest influence on civil servants working in the system on the local level. The local level is also the place where implementation/law enforcement occurs. The real problems associated with a rising juvenile crime rate are community-based, local issues. A gap exists between the local level, and the national level where legislation, policy making takes place. Legislators for the most part view

public opinion as riddled with emotion. They realize that public opinion is subjective and not necessarily factual. Therefore, public opinion is usually expressed through the intermediary of local, elected officials and middle management (for example, mayors, administrators at the DPJJ or the ministry of justice). This level of the system is able to filter out emotional reactions while still communicating community concerns. However, public opinion can also affect policy at the level of implementation.

In Germany, the influence of public opinion on public policy was repeatedly expressed and agreed upon in most of the interviews conducted for this project. There are more open public forums held in urban centers to which the general public is invited to meet with local and State representatives to express their views and concerns. Historically, Germany has been stricter in its enforced of offenses against property than in its enforcement of offenses involving bodily harm. This reflects the value placed on materialism by German society In the interviews conducted, several people attributed public pressure as directly responsible for altering the enforcement of crimes to where bodily offenses are seen as being the more serious crime. Though the factors in Germany are perhaps more subtle, they seem to indicate that public opinion is regarded as having some weight by most people in and out of the juvenile justice system. It appears that the public is offered opportunities to express their views directly to

politicians and legislators (also see Figure 3: German legislative process, page 260a-g of this text). There is at least one example in recent history where public pressure is accredited with influencing policy decisions (see "opinion polls", page 249).

Hypothesis 3

The process of policy making in Germany will be more complex due to the open nature of the system, while in France the policy making process will be simpler due to the closed nature of the system.

Summary of the findings

The abundance of actors in the German legislative process reinforces the notion that German policy making is more complex than that of the French. As in the example of accountability as defined by the German juvenile justice policy rests with a variety of professionals involved in the welfare of adolescents in and outside of the court system. The inclusion of such a wide variety of actors is characteristic of an open system.

The juvenile justice policies of both France and Germany are national policies. France, though moving in the direction of decentralization over the past few years, is still a centralized system. Germany is largely a decentralized governmental system. Decentralization distributes

responsibility and decision making to regional and local authorities. The level of decentralization in each of these countries has the greatest impact on policy implementation at the local level, and advocacy for new legislation at the local level as a result of local concerns and issues.

France has incorporated the option of simplifying and hastening their legislative process in an effort to give policy making the ability to proceed more efficiently. The French legislative system allows for the introduction of private member's bills by senators and deputies. In Germany, the Federal government by way of ministries proposes 2/3 of all bills. The German system requires agreement within the ministries for bills to be proposed. The German system also incorporates the frequent use of mediation to settle disputes, which also attests to another level of complexity with the system.

Germany's legislative system is procedurally more complex (refer to Figure 3, "German legislative process", pages 260a-g; compare to Figure 2, "French legislative process, pages 258a-d)) than the French legislative system. As can be learned from this flowchart, there are multiple readings where the bill(s) are presented to the public and the media, and more opportunities for debates and/or revisions of the amendments of clauses. Correspondence from citizens and organizations regarding bills on the floor are evaluated as part of the legislative process. The German

system is more open to participation in the legislative process by interest groups, organizations and associations. These factions represent a variety of "voices", add diversity, and make policy development inclusive.

Hypothesis 4

In Germany, juvenile justice policies are more preventive due to the open systems view of human nature, while in France juvenile justice policies are more punitive due to the closed systems view of human nature.

Summary of the findings

The contents of the French juvenile justice policy contradicts the closed system view of human nature and the assumptions that might be made regarding the natural gravitation towards punishment by a closed system. The French juvenile justice policy's commitment to education and prevention is stated repeatedly. This position was confirmed through interviews with professionals working in the French juvenile justice system.

Other examples of preventive approaches within the French system include the movement away from the use of confinement to open structures such as home detention and open foyers. At the local level, a variety of community groups and resources interested in youth issues are forming cooperative partnerships. More money is being spent at the local level on social and art programs, and sports activities. The French courts take into

consideration influences from the youth's environment when rendering judgments. In interviews conducted for this project, this attitude was attributed to advancements in adolescent psychology, psychiatry, and developments in the social sciences, as well as an increased understanding of child development. The French system focuses on the delinquent youth's lack of education rather than the deviant act. In France, there is less of an acceptance of juvenile crime as a normal part of adolescent development.

In Germany, the court relies on input/evaluation from sources outside of the court to provide social/family histories, psychological, risk assessment and other test results before proceeding with judicial decisions regarding youths. This is done in an attempt to establish the potential for further growth and development in the perpetrator, and the youth's maturity level prior to rendering a judgment.

German courts have recently become stricter on crimes involving bodily harm. There is some controversy regarding first time offenders, whether it is better to harshly penalize them hoping that the youth doesn't re-offend (and goes on to lead a crime-free life) or to attempt more education with first time offenders (in the hope of re-socializing the offender). The public often wants to see quick results and will advocate for stricter penalties. However, most interviewees agreed that stricter penalties do not produce better results. Preventive measures take time to produce

results and sometimes the results are not seen for years. This can be discouraging to a public looking for immediate solutions to difficult problems.

In both countries there is a split between the conservative and liberal party positions on juvenile crime. The liberals tend to favor treatment approaches, prevention, education, and intervention. Conservatives typically support more punitive actions and stricter enforcement, which are also known as "law and order" measures.

General discussion

The contribution that this study makes to research ultimately culminates in theoretical enrichment. Little has been written assessing, or even speculating as to the factors that might impact the development of juvenile justice policy in France and Germany. The purpose of this study is to identify those variables that are associated with the shaping of juvenile justice policy in France and Germany and to better understand the environment in which they exist. The study aids in developing an understanding of the sources of variation in policy decision making in France and Germany regarding juvenile justice policy and their impact on policy development. The understanding of socio-economic, political, cultural, and historical variables, which impact policy development in

different countries, has theoretical implications for further research in this area. A significant contribution will be made if the open and closed framework proves to be as useful for understanding policy making as this project contends.

I have come to realize that the cooperation that I have received while conducting research in Germany, given the difficulties I've encountered in France, may have biased my conclusions.

Ways in which the research could be expanded, would be to examine how juvenile justice is implemented in different areas of France and Germany, comparing rural to urban areas in France, and comparing the administration of juvenile justice in the Northern, Southern and Eastern regions of Germany.

1. Limitations

1. What did not go well/difficulties:

- The same information resources were not available in both countries. Information on one topic might be plentiful in one country, and sparse in the other.
- Progress was hindered while waiting for other people to send information, transcripts, and translations. Printed materials that were to be sent immediately arrived much later than the promised date.

- Being turned away at pre-arranged interviews
- The French and German journalists contacted refused to respond to the questionnaire
- Most lawyers in France demanded a six-week advance notice for pre-arranged interviews. One French lawyer cancelled the morning of a pre-scheduled interview.
- The most prominent people in the juvenile justice system are also the most difficult to access. This is especially true in France.
- Several of the national public opinion poll groups refused to answer my inquiries. In many instances, polls had not been done on the topics relating to juvenile justice or juvenile crime.
- The French and German Lawyer's Association was not able to offer any assistance because they deal with trade and border issues.
- One legal translator was not computer literate, so the resulting document had to be scanned onto a disk to be computer adaptable

2. Special Measures

- Legal translators in French and German had to be located because of the specialized nature of the text
- Interpreters had to be identified because all interviews were done in the interviewee's native language.

3. What could have been done differently

- Interviewed German legislators in a year when the German government was not moving from Bonn to Berlin
- Contacted newspapers in the two countries for the names of journalists reporting on juvenile justice issues

4. Topics for further research

Reforms being introduced at the legislative level in European countries effect the justice system at both the organizational and procedural level. Problems common to the European justice systems include overloaded dockets resulting in delays in the administration of justice, lack of adequate funding, and coping with an influx of immigrant, (non-native) population. Given these problems, the State is challenged to ensure the effectiveness of the justice system by improving its image, acceptance, and rendering it closer to the citizens.

There are new trends in the relationship between the justice system and the general public. Public concerns evolve around issues of access to justice, procedures, and decisions of the court. Efforts are being made to assess the sensitivity of the justice system to messages from society at large, together with the public image of the juvenile justice system.

Law is subject to a number of fundamental principles. Those include the principle of independence (external and internal) of magistrates, the principles of neutrality and impartiality, and the principle of a judge. These principles are constantly tested against complex issues of contemporary society.

Issues facing modern judicial systems include the impact of the quality of legislation on jurisprudence and the attitudes of magistrates. Debate focuses on the appropriate use of human resources/personnel, the distribution of tasks between various agents involved in judicial procedures, and the internal organizations of courts. Organizational solutions proposed to deal with these challenges include the transfer of competence from outside the traditional judicial system, cooperation between courts and increased flexibility.

The relationship between the justice system and the media raises issues worthy of future exploration in terms of the impact of media activity on the justice system and the quality of decisions made by the justice system. A second area for exploration is the role of the media with regards to the justice system, examining whether it is one of social control (i.e. the new means of social regulation) or one of pressure and influence on the justice system.

Appendix A

Definition of Terms

Administrative culture:

Administrative culture is the set of values and professional ethics that give insight into why a nation's civil servants decide and act in a particular manner. Administrative culture can be characterized as having three primary dimensions. The first dimension is that of the role of the civil servant (as the civil servant understands it to be), and his/her attitude towards political direction. The second involves sources of power and influence in the organization The third dimension is that of the relationship between public administration and the citizens in general. These dimensions help in the understanding of variations in administrative attitude and behavioral patterns in different cultural settings.

Age of majority:

The age at which a minor legal becomes an adult

Age of minority

The state of being a legal minor.

Amendment:

To improve or change for the better by removing defects or faults, or to alter by modification, deletion, or addition.

Boomerang kids:

Young adults who move out of their parent's home to housing of their own and eventually decide that they are unable to support themselves financially. Upon learning this, they move back home with their parents.

Case Law:

The aggregate of reported cases as forming a body of jurisprudence, or the law of a particular subject as evidenced or formed by the adjudged cases, in distinction to statutes and other sources of law.

Causality:

"An independent variable is expected to produce a change in the dependent variable in the direction and magnitude specified by the theory." However, if the independent variable varies as the dependent variable varies, this does not mean that a cause – and – effect relationship exists. "In practice, the demonstration of causality involves three distinct operations demonstrating

covariation, eliminating spurious relationships, and establishing the time order of the occurrences." Nachmias & Nachmias, 1996, p.103 In philosophy, the relationship of a cause to its effect.

Centralization:

The tendency for political power to be "founded" in large units (e.g. national government) rather than smaller local and state units.

Circulars:

Circulars are texts that are sent to the Procureurs de la Republique. They are global directives that guide the direction in which policy is developed. They are orders and recommendations that form the general image of what is ideally implemented by way of policy.

Closed systems:

These organizations pursue relatively specific goals and exhibit relatively formal social structures. They function largely in isolation from their environments. Their behavior is entirely explainable from within, as they are systems without input. These are systems that are closed to information, and as such are characterized as independent and autonomous.

Collectivism:

Collectivism is one aspect of national culture which, along with individualism, can be used to describe the way people live with each other. Collectivism is a cultural belief that the initiative, action and/or interests of the group comes first. Structurally/bureaucratically, the level of individualism/collectivism can be used to describe the relationship between a person and the organization to which he or she belongs. When collectivism is used referring to politics or economics, it means control is shared by all members of a group. Collectivist societies develop a greater emotional dependence on organizational members. In return, collective organizations assume a greater responsibility for their members.

Crime:

In English, the word *crime* can be applied to all offenses. In France, the word crime means infraction. There are three classes of infractions: *les contraventions, les delits, and les crimes*. "Crime" is used to refer only to the most violent of offenses such as rape, murder, etc.

Decentralization:

The process of dividing and distributing authority and responsibility for programs to administrative subunits.

Deterministic:

A means to explain why governments develop policies in the way that they do. Analyzing and determining which of a variety of causal factors are most significant does this, and an explanation can be given for why this is so. Deterministic also refers to a policy whose elements are determined by antecedent causes.

Dispositif:

The organization or resources needed to put something into practice "framework".

Departementale de la Protection Judiciare de la Jeunesse (D.P.J.J):

Department of Youth Judicial Protection (France)

Droit:

In French law, right, justice, equity, law, the whole body of law; also a right. This term exhibits the same ambiguity that is discoverable in the German equivalent "recht" and the English word "right". On the one hand, these terms answer to the Roman "jus" and thus indicate law in the abstract, considered as the foundation of all rights, or the complex of

underlying moral principles which impart the character of justice to all positive law, or give it an ethical content. Taken in this abstract sense, the terms may be adjectives, in which case they are equivalent to "just" or nouns, in which case they may be paraphrased by the expressions "justice," "morality," or "equity". On the other hand, they serve to point out a right: that is, a power, privilege, faculty, or demand, inherent in one person, and incident upon another. In the latter signification, droit (or recht or right) is the correlative of "duty" or "obligation." In the former sense, it may be considered as opposed to wrong, injustice or the absence of law. Droit has the further ambiguity that it is sometimes used to denote the existing body of law considered as one whole, or sum total of a number of individual laws taken together.

Dysfunctional:

Refers to the impaired or abnormal functioning of youth in their home, school, or community.

Educate:

In French, education means to teach someone how to get along (live) in society, including manners, values, respect, upbringing. In French, the word "to learn" (that is, formation, etude) is used to mean, "to educate" in

the American sense.

European Union:

A European intergovernmental organization dedicated to increasing economic and political integration by strengthening cooperation among its member States. The membership of the European Union is composed of all European countries except Switzerland and Norway. Voters of each Member State approved the Treaty on European Union by popular referendum in October 1993. The European Union was established November 1, 1993 when the treaty went into effect.

Gatekeeping :

The decision making done by news agencies when they review all the possible news items for publication and make a determination as to which ones will actually be published, their degree of coverage and placement.

Gendarmerie:

A public officer (constable) responsible for keeping the peace and other minor judicial duties. In the United States, a community services officer.

Individualism:

A cultural belief or doctrine that the interests, actions and/or initiative of the individual come first (relates to the rights of man)

Country Individualism Index: Germany 67, France 71 (Hofstede, G. (1984). Culture's Consequences. Newbury Park: SAGE.) Also, see *collectivism.*

Modification:

A change, alteration, or amendment that introduces new elements into the details, eliminates others, but leaves the general purpose and effect of the subject matter intact.

Objective:

In German, the English word "objective" finds its equivalence in the expression, "short term goals".

Open System:

Open systems interact with the environment in which they exist. They are made up of two components: input, that which enters the system from the outside, and output, that which leaves the system for the environment They are open to and dependent on flows of personnel, resources and

information from outside of the organization The environment is viewed as shaping and supporting the organization, as is exemplified in social institutions. The open system is not formal, nor highly structured, but seen as a system of interdependent activities that establish links between its members.

Policy:

In France and Germany, "policy" refers to both policy and law in the American sense of the word.

Protection (of children):

In France, protection means to provide education and financial support or stability for their development.

Restorative Justice:

Restorative justice is a way of dealing with low level crime that empowers the victim and the community to have a key role in the justice process. A restorative solution is one that focuses on repairing the damage of crime The victim has a voice; the offender is accountable; the community is involved. These interventions are resolved out of court. The impact of the crime is discussed and an outcome is decided upon that will restore both

the victim and the community. Offenders are held directly accountable in a way that includes and benefits those who are affected by crime. It gives some responsibility back to the community for the justice "task" and reinforces the standards of acceptable behavior. The victims needs are met on an individualized basis. Solutions tend to be highly creative. Participation is voluntary for everyone involved. The alternative to this type of intervention is prosecution by the courts.

Social Charter:

The European Social Charter guarantees a considerable range of economic and social rights for the people of Europe, as protected by member States. These rights can be divided into three categories: protection of employment, social protection for the whole population, and special protection outside of the work environment. Member States selectively can accept the rights contained in the charter, though there are a "core" set of rights to which all must subscribe.

Victim-Offender Mediation:

A mediation whose focus is on the perpetrator reaching an agreement with the injured party (victim) so that justice can be achieved by repairing harm.

Written law:

Law motivated by direct legislative enactment.

Appendix B

French Juvenile Justice Policy

Regulation (modified) No 45-174 dated February 2 1945

Relating to juvenile delinquency

Present regulation from the law no 97-1159 dated December 19,1997)

Chapter I- General provisions.

Article 1:

Minors who have been charged with a violation, either felony or misdemeanor, won't appear before common-law jurisdictions, but will be referred only to juvenile courts or criminal courts for minors.

Those charged with a 5th class minor offense are referred to juvenile jurisdictions according to the conditions contained in article 20-1.

Article 2:

The juvenile court and the criminal court for minors will enact appropriate measures of protection, assistance, supervision and education, according to cases.

However, when circumstances and the delinquent's personality require it, they will have the option to pass a penal sentence against a minor of over 13 years of age, according to the provisions of articles 20-2 to 20-5.

The juvenile court can pass a jail sentence, with or without suspension, only after having shown cause for the choice of such a sentence.

Article 3:

Are qualified the juvenile court or the criminal court for minors located where the violation took place, or where the minor or his parents or guardian reside, or where the minor was arrested or where he has been placed wither temporarily or permanently.

Article 4:

I. The 13 year old minor cannot be kept under close watch. However, exceptionally the 10 to 13 year old minor in whom have been detected

serious and concerted signs letting presume that he has committed or attempted to commit a felony or a misdemeanor punishable by at least a 7-yearj ail term, can be kept under the supervision of a judicial police officer according to the needs of the investigation, with prior approval and control of a state magistrate or an examining judge specialized in juvenile protection, or a juvenile judge, for a length of time decided upon by the magistrate not to exceed 10 hours.

However this close watch can be exceptionally extended by a justified decision of this magistrate for a length of time not to exceed again 10 hours, following a personal appearance of the minor, unless circumstances render this appearance impossible. This close watch must be strictly limited to the time needed for the minor's hearing and his appearance before the qualified magistrate, or his placement with one of the persons designated in Paragraph 11 of present article.

The provisions of Paragraphs II, III and IV of present article are applicable when the minor or his representatives, or his legal representatives have not selected a defense lawyer; the state prosecutor (district attorney), the examining judge or the judicial police office must, from the start of the close watch, inform by any means and without delay the Bar President so

that he may appoint a lawyer.

II. When a minor is kept in close watch, the judicial police officer must inform of this measure the parents, guardian, the person or organization with whom the minor has been placed.

A derogation of the provisions outlined in the previous Paragraph can only be made by decision of the state prosecutor or the examining judge and for a length of time determined by the magistrate not to exceed 24 hours, or 12 hours when the close watch cannot be prolonged.

III - At the beginning of the close watch of a 16-year old minor, the state prosecutor (district attorney) or the examining judge must select a medical doctor who will examine the minor under the conditions outlined in the 4 th Paragraph of articles 63-3 of the penal procedure Code.

IV - At the beginning of the close watch, the 16-year old minor may ask to consult with a lawyer. He must be immediately informed of his right. If the minor has not sought the assistance of a lawyer, this request can also be made by his legal representatives who have been advised of this right when informed of the minor's close watch, according to the provisions of

Paragraph 11 of present article.

V. In the case of a violation punishable by a jail sentence of less then 5 years, the close watch of a 13 to 16-year old minor cannot be extended.

No close watch can be extended without prior appearance of the minor before the state prosecutor (district attorney) or the examining judge. In urgent cases, the provisions of the 2 nd Paragraph of article 7 can be applied.

Article 4-1:

A lawyer must assist the prosecuted minor.

If no lawyer selection has been made by the minor or his legal representatives, the juvenile judge or the examining judge request the Bar President to appoint a lawyer.

Article 5:

No prosecution concerning a felony can be conducted against minors without prior inquiry.

In the case of a misdemeanor, the state prosecutor (district attorney) will notify either the examining judge or the juvenile judge by special request, and in Paris, the juvenile court President. Upon the notification of the juvenile judge or aforementioned President by request, he may require the personal appearance of the minor within the shortest time limits, as per article 8-2

The state prosecutor (district attorney) may also instruct a judicial police officer or agent to notify the minor - against whom have been brought sufficient charges that he has committed a misdemeanor-, of a summons to appear before the juvenile judge who will be immediately notified, in compliance with the article 8-1. This summons which has the value of a sub-poena, will set in motion the application of the delays provided by article 552 of the penal procedure Code.

The summons will list the reproached facts, cite the law that represses them and indicate the name of the vested judge as well as the date and place of the court appearance Will also be entered the provisions of articled 4-1.

The summons will also be notified in the shortest possible time to the parents, guardian, person or organization with whom the minor has been placed The summons will be acknowledged by a receipt signed by the minor and one of the persons listed in the previous Paragraph; copy of the receipt will be fumished to them. In no case can the minor be submitted to

the procedures outlined in articles 393 to 396 of the penal procedure Code or subject to direct summons.

The victim will be notified by whatever means of the date of the minor's appearance before the juvenile judge

The summons mentioned in previous Paragraphs can also be used for an examination of the minor.

Article 6:

The civil case may be brought before the juvenile judge, the examining judge, the juvenile court and the criminal court for minors.

When one or several minors are implicated in the same case as one or several adults, the civil action against all responsible persons may be brought before the court of petty sessions or the criminal court

For adults. In such case the minors do not appear during the court session, only their legal representatives. Lacking the selection of a defense lawyer by the minor or his legal representatives, a lawyer will be court appointed. In cases described in the previous Paragraph if the guilt of the minors has not been demonstrated yet, the court of petty sessions or the criminal court may postpone the civil case.

Chapter 2- The procedure

Article 7:

The state prosecutor in the jurisdiction of the qualified juvenile court is in charge of the prosecution of felonies and misdemeanors committed by minors.

However the state prosecutor (district attorney), qualified in virtue of article 43 and 696 of the penal procedure Code, and the examining judge selected by him or acting ex-officio according the provisions of article 72 of same Code, will proceed to all urgent acts of prosecution and examination, provided that they immediately notify the state prosecutor in the jurisdiction of the juvenile court and divest themselves of the prosecution in the shortest possible time.

When the minor is implicated in the same case as one or several adults, urgent acts of prosecution and examination will be taken in accordance with the provisions of previous Paragraph. If the state prosecutor prosecutes adults according to procedures listed in articles 393 to 396 of the penal procedure Code or by direct summons, he will prepare a file concerning the minor and will transmit it to the state prosecutor who is within the jurisdiction of the juvenile court. If an inquiry has been started, the examining judge will, in the shortest possible time, divest himself of the

case concerning the minor as well as the adults in favor of the examining judge sitting within the jurisdiction of the juvenile court.

Article 7-1:

Repealed.

Article 8:

The juvenile judge will exercise all expeditiousness and useful inquiries to evince the truth and gain knowledge of the minor's personality as well as the appropriate means for his rehabilitation.

To that purpose he will proceed to an inquiry, either by semi-official means or in conformity with the procedures outlined in Chapter I of Title III of Book I of the penal procedure Code. In the latter case, and if an emergency exists, the juvenile judge may hear the minor about his family or personal situation without having to observe the provisions of the second paragraph of article 114 of the penal procedure Code. He may issue all necessary warrants or prescribe judiciary control in conformity with common-law regulations, within the restrictions of article 11 provisions

By means of a social inquiry, he will gather information on the material and moral situation of the family, on the character and prior history of the minor, on his school attendance, his attitude in school, on the conditions

under which he lived or was raised. The juvenile judge will ask for a medical examination, and if necessary, a psychological examination. He will eventually prescribe the placement of the minor in a halfway house, or an observation center.

However he may, in the minor's interest, prescribe none of these measures or only one of them. In such case, he will render a motivated order.

All prompt measures having been taken, the juvenile judge, either ex-officio or at the request of the district attorney, may transmit the minor's file to the latter.

Before this pronouncement on the substance of the case, he may prescribe for the minor being examined a measure of supervised release on a temporary basis, in order to issue a decision after one or several trial periods the duration of which he will determine. He may thereafter, by decree, either declare that there is no cause for further prosecution and proceed as outlined in article 177 of the penal procedure code, or send the case back to the juvenile court or, if necessary, to the examining judge. He may also, after judgment rendered in the judge chamber:

1) either release the minor if he considers that the violation has not bee proven;

2) or, after having established the guilt of the minor, clear him of any other measures if it appears that his rehabilitation is secured, that the damage

done has been repaired and the trouble caused by the violation has ceased, and prescribing, as warranted by the case, that this decision will not appear in his police record;

3) or issue a reprimand;

4) or release him to his parents, guardian, or the person he was placed with, or to a trusted person;

5) or pronounce, as a principal in the case, his placement under judicial protection for a length of time not to exceed 5 years under the conditions defined in article 16bis;

6) or place him in one of the establishments described in articles 15 and 16, and according to the differentiating outlined in those articles.

In all cases, he may eventually prescribe that the minor be placed under the regime of supervised release for a number of years not to go beyond the year of his majority.

Article 8-1:

When vested under the conditions outlined in the 3rd and 6th paragraphs of article 5, the juvenile judge will verify the identity of the minor, and make sure he is assisted by a lawyer.

I-If the facts need no other additional inquiry, the juvenile judge will render a decision about the accusation by judgment in council chamber, or as the

case may be, about the civil action.

If the juvenile judge deems the violation to have been established, he may:

- If he ascertains that sufficient inquiries on the minor's personality and on appropriate means for his rehabilitation have already been conducted, he may immediately prescribe one of the measures outlined in 2), 3) and 4) of article 8, or even order a measure or an activity of assistance or compensation under the conditions outlined in article 12-1;

- If he ascertains that sufficient inquiries on the minor's personality and on appropriate means for his rehabilitation have been already conducted, but plans to prescribe one of the measures outlined in 5) and 6) of article 8, he may postpone the case to a later session in the council chamber to be held within the next 6 months at the latest.

-If he ascertains that the investigations on the minor's personality and on the appropriate means for his rehabilitation are not sufficient, he may postpone the case to a later session in the council chamber, to be held at the latest within the next 6 months. He will gather information on the minor's personality and on the material and moral situation of the family pursuant to the conditions outlined in the 4th and 5th paragraphs of article 8.

-If the juvenile judge makes use of the provisions of either 2 previous paragraphs, he may prescribe for the minor, as a temporary measure, his placement in a public establishment or one specialized in that field, or his

prejudicial supervised release, or a measure or activity of assistance or compensation toward the victim, with the latter's agreement, or beneficial to the community.

-If the facts require additional inquiries, the juvenile judge will proceed as described in articles 8 and 10.

Article 8-2

Regarding criminal matters, the state prosecutor (district attorney), if he ascertains that the proceedings and inquiries outlined in article 8 have already been conducted, even during a prior procedure as the case may be, and that they are sufficient, and if inquiries on the facts are unnecessary - may require the juvenile judge, under conditions outlined in 2nd paragraph of article 5, to order the minor's appearance before the juvenile court or before the council chamber within a period not less than one month or more than 3 months.

In such case the minor will be immediately introduced to the juvenile judge who will verify his identity and inform him that he is entitled to the assistance of a lawyer of his choice or court-appointed If the minor or his legal representatives have not selected a lawyer, the juvenile judge will immediately have the Bar President appoint a lawyer. The lawyer will be able to study the brief prepared by the judge with information on the

minor's personality and the available and appropriate means for his rehabilitation, and will be able to communicate freely with the minor. The magistrate will notify the minor of the charges against him and their legal classification, and the lawyer, having been recognized, will record his statements in the minutes. The formalities outlined in the present paragraph are entered in the minutes to avoid nullification.

If, at the end of the minor's introduction as mentioned in 2nd paragraph, the Juvenile judge accedes to the request of the state prosecutor (district attorney) he will notify the minor of the location, date and time of the court session. This notification will be entered in the minutes, a copy of which will be immediately given to the minor and his lawyer.

The minor's legal representatives will also be advised by whatever means.

Until the minor's appearance, the juvenile judge may eventually prescribe the measures outlined in articles 8, 10 and 11.

If the juvenile judge does not accede to the state prosecutor's request, he will, after the minor's appearance, render a motivated order a copy of which will be immediately submitted to the minor, his lawyer and the state prosecutor. The minor's legal representatives will also be notified by whatever means.

The state prosecutor may appeal this order the day after notification of this decision at the latest. This appeal will be notified to the minor, his legal

representatives and his lawyer. The appeal will be conveyed to the president of the special chamber for minors of the Appeal Court, or his substitute who will decree within the 15 days after his notification at the latest. The transmittal of the procedure file will be done by whatever means, and more particularly by fax The minor, his legal representatives and his lawyer may present the president of the special chamber for minors with all useful observations in-writing. The president of the special chamber for minors may, either confirm the order of the juvenile judge, or demand the minor's appearance before the court or before the council chamber. The juvenile judge will be immediately notified of the decision. Once the transfer of the case is ordered, the state prosecutor must notify the minor to appear within the time determined by the president of the special chamber for minors Until such appearance, the juvenile judge will remain competent to order eventually the measures outlined in articles 8, 10 and 11.

Article 8-3:

Concerning criminal matters, the state prosecutor may, at any time in the procedure, make use of the provisions of article 8-2, subject to conditions outlined in 1st paragraph of said article.

The juvenile judge must decree within the 5 days of receipt of these

requests. His order may be subject to an appeal under the conditions outlined in the 5th and 6th paragraphs of article 8-2.

The state prosecutor may vest the president of the special chamber for minors or his substitute after the juvenile judge failed to decree within the 5 days. The investiture will be notified to the minor, his legal representatives and his lawyer who may present the president of the special chamber for minors or his substitute with all useful observations in-writing.

Article 9:

The examining judge will proceed with the minor in accordance with the procedures listed in Chapter I of Title III of Book I of the penal procedure Code, and will pass the measures outlined in paragraphs 4, 5 and 6 of article 8 of present Regulation. Once the examination is finished, the examining judge, at the state prosecutor's request, will render one of the following regulating orders:

1) either a charge dismissal;

2) or, if he deems the fact to constitute a minor offense, a transfer of the case to the police court, or if it is a 5th class minor offense, to the juvenile judge or juvenile court;

3) or, if he deems the facts to constitute a misdemeanor, an order of

transfer to the juvenile judge or the juvenile court;

4) in the case of a felony, either an order of transfer to the juvenile court if the minor is 16 years old, or, in cases aimed at in article 20, an order for the files transmission to the attorney general, as outlined in article 181 of the penal procedure Code.

If the minor has some adult accomplices, the latter will be transferred before the competent common-law jurisdiction in cases of misdemeanor prosecution; the minor's case will be separately judged according to the present Regulation. In cases of criminal prosecutions, the procedure used against all persons being examined will follow the provision of article 181 of the penal procedure Code; the accusation chamber may, either transfer all the accused of at least 16 years of age before the criminal court for minors, or disjoin the prosecutions against the adults and transfer those before the common-law criminal court; the minors under the age of 16 will be sent back before the juvenile court.

The decree will be written in the common-law form.

In the case of a transfer before the criminal court for minors, the accusation chamber may issue a writ of habeas corpus against the accused minors.

Article 10:

The examining judge or the juvenile judge informs the minor's parents, his guardian or the persons or service with whom he has been placed, of the prosecutions concerning the minor. This notification is done orally with an addendum placed in the file margin, or by registered mail. It will list the minor's reproached facts and their legal classification. It will also point out that lacking the selection of a defense lawyer by the minor or his legal representatives, the examining judge or the juvenile judge will have the Bar President appoint a lawyer.

Whatever procedures of appearance are used, the minor and his parents, the guardian, the person in charge of the minor or his substitute are summoned at the same time to be heard by the judge. They are kept informed of the procedure development. During the first hearing, if the minor or his legal representatives have not selected a lawyer nor asked for a court-appointed one, the juvenile judge or the competent examining judge asks for the immediate appointment of a lawyer by the Bar President. The juvenile judge and the examining judge may entrust the social inquiry to the social services or persons with a degree in social work. They may temporarily place the minor being interrogated:

1) with his parents, guardian or the person who was keeping him, or

with a trusted person;

2) in a halfway house;

3) in the receiving section of a public or private institution specialized in that field;

4) with a children services organization or a children clinic;

5) with an educational organization, a trade school, a special care establishment state-run or state-approved.

If they agree that the physical or psychological condition of the minor calls for an observation in depth, they may order this temporary placement with a center state-run or state-approved by the Justice Department. This temporary placement may eventually be changed to a supervised release. The juvenile judge in charge of the procedure is competent to modify or revoke the placement measure until the minor's appearance before the juvenile judge.

Article 11:

The minor over the age of 13 can be temporarily placed in a detention center either by the examining judge or the juvenile judge only if this necessary, or again if it is impossible to find any other measure.

However the minor under the age of 16 cannot be temporarily confined, in

misdemeanor cases In every case, the minor will be detained in special quarters, or in lack of such, in a special housing; he will be isolated during the night, as best as possible.

In misdemeanor cases, when the incurred penalty is not more than a 7-year jail term, the temporary confinement of minors of at least 16 years of age cannot exceed a month. However at the end of this time, the confinement may be extended, exceptionally, by a motivated order as quoted in first Paragraph of article 145 of the penal procedure Code, and rendered in accordance with the provisions of 4th paragraph of same article in same Code, for a length of time not to exceed a month; the extension can only be ordered once

In other cases the provisions of Is' Paragraph of article 145-1 of the penal procedure Code are to be applied, in misdemeanor matters, to minors of at least 16 years of age; however the extension must be ordered in compliance with the provisions of 4th Paragraph of article 145 of the penal procedure Code, and it cannot be extended beyond one year.

In criminal matters the temporary confinement of minors older than 13 but under the age if 16 cannot exceed 6 months. However at the end of this time, the confinement can be extended, exceptionally, for a length of time not to go beyond 6 months, by an order rendered in accordance with the provisions of 4th Paragraph of article 145-1 of the penal procedure Code,

and including (with reference to I and 2 of article 144 in same Code) the list of legal and factual considerations that are the basis of the decision; the extension can only be ordered once.

The provisions of article 145-2 of the penal procedure Code can be applied minors of at least 16 years of age; however the temporary confinement cannot be extended beyond 2 years.

The provisions of 4th and 5th paragraphs of present Regulation are to be applied until the sentencing order.

Article 12:

The qualified judicial juvenile protection service may, by request of the state prosecutor, the juvenile judge or the examining jurisdiction, compile a written report including all useful information related to the minor's situation as well an educational proposal.

When article 5 is applied, the above service is automatically consulted prior to any prosecution or any decision of placement in temporary confinement of the minor, or extension of the temporary confinement

The above service must also be consulted prior to any decision from the juvenile judge in accordance with article 8-1, and any request from the state prosecutor in accordance with articles 8-2 and 8-3.

The report mentioned in 1st Paragraph is also attached to the proceedings.

Article 12-1:

The state prosecutor, the jurisdiction in charge of the case instruction, or the sentencing jurisdiction have the option to propose to the minor a measure or activity of assistance or compensation toward the victim or to benefit the community. All measure or activity of assistance or compensation toward the victim can be ordered only after approval of the latter.

When this measure or activity is proposed before the beginning of the prosecutions, the state prosecutor must seek the minor's prior agreement as well as the agreement of those exercising the parental authority. The minutes recording this agreement are attached to the proceedings.

The instructing jurisdiction proceeds in the same manner.

When the measure or activity of assistance or compensation is ordered by judgment, the jurisdiction collects the preparatory observations of the minor and of those exercising the parental authority.

The execution of the measure or activity can be entrusted to the public system of judiciary juvenile protection or to a social worker, or to an establishment or service under the moral control of a person qualified in this field, under the conditions outlined by decree At the end of the time determined by the decision, the service or person responsible for the

execution of such measure or activity must compile a report directed to the magistrate who has ordered the measure or activity of assistance or compensation.

Chapter 3- The juvenile court -

Article 13:

The juvenile court will render a decision after having heard the minor, the witnesses, the parents, the guardian or trusted person, the state prosecutor and the defense lawyer. It may hear the adult co-defendants or accomplices, for information purposes only. The juvenile court President may, in the interest of the minor, exempt the latter to appear during the court session. In such case, the minor will be represented by a lawyer or his father, mother or guardian. Such decision will be called contradictory.
The juvenile court will remain vested toward the minor who is less than 16 years old of age when it decides to apply a criminal classification to the facts for which he was prosecuted in misdemeanor court. He will order in that case additional information and will delegate the examining judge to this task, if the adjournment order comes from the juvenile court.

Article 13-1:

Repealed.

Article 14:

Each case will be judged separately in the absence of all other accused. Only the case witnesses, the guardian, or the legal representative of the minor, members of the Bar, representatives of the youth clubs and services or institutions taking care of children, the delegates for the supervised release, will be admitted to attend the court sessions.

The president may at any moment order the minor's withdrawal during part or all the session. He may also order the witnesses to withdraw after their hearing. The publication of the reports of the juvenile court sessions in books, the press, the radio, the cinema or whatever means, will be forbidden. The publication through the same processes of any text or illustration concerning the identity and the personality of the delinquent minor is equally forbidden. The violations of these provisions will be punished by a fine of 40,000 francs; in case of a repeated offense a 2-yearjail term may be passed.

The sentence will be rendered publicly in the minor's presence. It may be published without mentioning the minor's name, or not even his initials, or

a fine of 25,000 francs will be levied.

Article 14-1:

When the violations of the provisions of paragraphs 4 and 5 of the preceding article are committed by the press, the publications directors or editors will be, for the publishing fact only, subject, as main authors, to penalties as provided in these paragraphs.

In their absence, the author, or in his absence, the printers, distributors and bill posters will be prosecuted as main authors.

When the author is not prosecuted as main author, he will be prosecuted as an accomplice.

May be prosecuted as accomplices, and in all cases, all persons to whom articles 121-6 and 121-7 of the penal Code may be applied.

Article 15:

If the accusation toward the 16-year old minor is established, the juvenile court will pronounce by motivated decision one of the following measures:

1) placement with his parents, guardian, with the person who was keeping him or a trusted person;
2) placement in a qualified institution or public or private establishment, of education or professional formation;

3) placement in a qualified medical or medical-educational establishment;

4) handing over to a juvenile protection service;

5) placement in a boarding school appropriate to delinquent minors of school age.

Article 16:

If the accusation is established toward a minor over the age of 13, the juvenile court will pronounce by motivated decision one of the following measures:

1) placement with his parents, guardian, or a trusted person;

2) placement in a qualified institution or a public or private establishmem of education or professional formation;

3) placement in a qualified medical or medico-educational establishment;

4) placement in a public or private institution of education either supervised or corrective.

Article 16 bis:

If the accusation is established toward the minor, the juvenile court and the criminal court for minors may also pronounce, as a principal in the case and by motivated decision, the placement under judiciary protection for a

length of time not to exceed 5 years.

The various measures of protection, assistance, supervision and education to which the minor will be submitted will be determined by a decree in State Council.

The juvenile judge may, at any time until the end of the judiciary protection, prescribe one or several measures mentioned in the preceding paragraph. He may moreover, under the same conditions, either cancel one or several measures to which the minor will have been submitted, or put an end to the judiciary protection.

When, for the implementation of the judiciary protection, the placement of the minor over the age of 16 in one of the establishments designated in the above article will have been decided, this placement cannot be continued past the majority of the interested party, only if he has made a request.

Article 17:

In all cases outlined in articles 15 and 16 above, the measures will be pronounced for the number of years determined by the decision, not to go beyond the time when the minor reaches his majority.

The placement of a minor to Public Assistance will only be possible, if the child is older than 13, for the purpose of a medical treatment, or moreover in the case of an orphan or a child whose parents have forfeited the

parental authority.

Article 18:

If the accusation is established toward the minor older than 13, the latter will be subject to a penal condemnation according to article 2.

Article 19:

When one of the measures outlined in articles 15, 16 and 28 or a penal condemnation is decided, the minor may, moreover, be placed under the regime of supervised freedom to last not beyond his majority.

The juvenile court may, before pronouncement on the substance of the case, order temporary release in order to pass sentence after one or several trial periods the duration of which he will set.

Article 20:

The minor of 16 years of age at least, accused of crime, will be judged by the criminal court for minors, composed of a President, 2 assistants and completed by the criminal jury.

The criminal court for minors will meet at the seat of the common-law criminal court and during the latter's session. His president will be designated and replaced, if necessary, under the conditions outlined for the

president of the common-law criminal court by articles 244 to 247 of the penal procedure Code. The 2 assistants will be chosen, barring impossibility, among the juvenile judges within the jurisdiction of the court and designated according to the forms of articles 248 to 252 of the penal procedure Code.

The functions of the public ministry close to the criminal court for minors will be filled by the attorney general or a public ministry magistrate especially qualified for minors cases.

The clerk of the common-law criminal court will fill the functions of clerk at the criminal court for minors.

In the case when all the accused of the session have been sent back before the criminal court for minors, this jurisdiction will proceed according to the provisions of articles 288 to 292 of the penal procedure Code.

In the opposite case, the jury of the criminal court for minors will be composed of persons selected from the list compiled by the common-law criminal court.

Subject to the provisions of the preceding paragraph, the president of the criminal court for minors and the criminal court for minors will respectively exercise the prerogatives vested to the president of the common-law criminal court and the court, from the provisions of the penal procedure Code.

The provisions of paragraphs 1, 2, 4 and 5 of article 4 will apply to the juvenile criminal court.

After the cross-examination of the accused, the president of the juvenile criminal court may at any time order that the accused minor withdraw during all or part of the proceedings.

Subject to the provisions of the present regulation, it will be proceeded, in regard to the minors of at least 16 years of age accused of crime, according to the provisions of articles 191 to 218 and 231 to 380 of the penal procedure Code.

If the accused is younger than 18 years old, the president will ask, under nullification penalty, the 2 following questions:

1) is there cause to apply a penal condemnation to the accused?

2) is there cause to exclude the accused from the penalty reduction described in article 20-2?

If it is decided that the accused minor found guilty must not be subject to a penal condemnation, the measures connected with his placement or custody about which the court and the jury are called to decree, will be those of articles 8 to 10 of paragraph 1.

Article 20-1:

The 5th class small offenses committed by minors are examined and judged

under the conditions outlined in articles 8 to 10 of present regulation.

Article 20-2:

The juvenile court and the criminal court for minors cannot pronounce against minors older than 13 a freedom-depriving penalty for longer than half of the incurred penalty. If the incurred penalty is life imprisonment, they cannot pronounce a penalty for longer than 20 years of criminal confinement.

However, if the minor is older than 16, the juvenile court and the criminal court for minors can, exceptionally, and taking into account the circumstances of the case and the minor's personality, decide that there is no cause to apply the provisions of the first paragraph. This decision can be taken by the juvenile court only by a specially motivated resolution.

The provisions of article 132-23 of the penal Code'regarding the period of security are not applicable to minors.

The confinement is undergone by the minors under conditions defined by decree in the State Council.

Article 20-3:

Subject to the application of the provisions of 2d paragraph of article 20-2, the juvenile court and the criminal court for minors cannot pronounce

against a minor of over 13 years of age a fine of an amount superior to half of the incurred fine or exceeding 50,000 francs.

Article 20-4:

The penalty of expulsion from the French territory and the penalties outlined in articles 131-25 to 131-35 of the penal Code cannot be pronounced against a minor.

Article 20-5:

The provisions of articles 131-8 and 131-22 to 131-24 of the penal Code regarding community interest work are applicable to minors 16 to 18 years of age. Similarly, are to be applied the provisions of articles 132-54 to 132-57 of the penal Code regarding the suspended penalty paired with community interest work.

The prerogatives of the judge for the application of the penalties listed in articles 13 1 - 22 to 132-5 7 of the penal Code are vested to the juvenile judge. For the application of articles 131-8 and 132-54 of the penal Code, works of general interest must be adapted to minors and present a formative character of a nature to facilitate the social insertion of the condemned minors.

Article 20-6:

No expulsion, rights forfeiture nor incapacity can be wholly result from a penal condemnation pronounced against a minor.

Article 20-7:

The provisions of articles 132-58 to 132-62 of the penal Code related to the suspension of penalty and the postponement are applicable to minors of 13 to 18 years of age.

However the postponement of the pronouncement of the educational measure or the penalty will also be ordered when the juvenile court considers that the prospects for the evolution of the minor's personality justify it. The case will then be sent back to a hearing that must take place within 6 months at the latest.

The juvenile court who postpones the pronouncement of the educational measure or the penalty can order, temporarily, toward the minor, a measure of prejudicial supervised release or a measure or activity of assistance or compensation under the conditions outlined in article 12-1.

The provisions of articles 132-63 to 132-70-1 of the penal Code are not applicable to minors.

Article 20-8:

(law No 97-1159 dated 19 December 1997) - The provisions of articles 723 -7 to 723-13 of the penal procedure Code related to the placement under electronic supervision are applicable to minors

Article 21:

Subject to the application of articles 524 to 530-1 of the penal procedure Code, the minor offenses of the flrst 4 classes are referred to the police court sitting under the publicity conditions prescribed in article 14 for the juvenile court.

If the minor offense is established, the court may simply reprimand the minor, or pronounce the penalty prescribed by the law. However, 13 year old minors cannot be subject to a reprimand

Moreover, if the police court deems useful, in the minor's interest, to adopt a measure of supervision, it may, after the judgment pronouncement, send the file back to the juvenile judge who will have the option to place the minor under the regime of supervised release. The appeal of the decisions from the police courts is carried before the appeal court under the conditions outlined in article 7 of regulation No 58-1274 dated 22 December 1958 concerning the organizations of jurisdiction for children.

Article 22:

The juvenile judge and the juvenile court may, in all cases, order the temporary implementation of their decision, notwithstanding opposition or appeal.

The decisions outlined in above article 15 and pronounced during non-appearance of the 13 year old minor, when their temporary implementation will have been ordered, will be brought back to the care of the State prosecutor, according to the provisions of article 707 of the penal procedure Code. The minor will be taken to a hospitality center or in the hospitality section of an institution endorsed by article 10 or in a public assistance housing or an observation center.

Article 23:

The delegate of the juvenile protection service will exercise in the special chamber of the appeal court the functions endorsed in article 6 of the above mentioned regulation 58-1274 dated 22 December 1958. He will be seated as member of the accusation chamber when the latter instructs a case in which a minor is implicated either alone or with adult accomplices This delegate will dispose, in case of appeal, of the powers vested to the juvenile judge as per article 29 (1st paragraph).

Article 24:

The rules on non-appearance and opposition resulting from articles 487 and next of the penal procedure Code will be applicable to judgments from the juvenile judge and the juvenile court.

The provisions of articles 185 to 187 of the penal procedure Code will be applicable to the orders of the juvenile judge and the examining judge in charge of minors' cases.

However, by derogation to article 186 of same code, the orders of the juvenile judge and the examining judge concerning temporary measures outlined in article 10 will be subject to appeal. This appeal will be prepared within the delays of article 498 of the penal procedure Code and carried before the special chamber of the appeal court. The rules enacted by the articles 496 and next of the penal procedure Code will be applicable to the appeal of the sentences of the juvenile judge and the juvenile court.

The right of opposition, appeal or request for annulment may be exercised either by the minor or his legal representative.

The request for annulment has no suspension effect, except if a penal condemnation has occurred.

The judgments of the juvenile judge will be exempt of the formalities of stamp and registration fees.

Chapter 4- The supervised release

Article 25:

The rehabilitation of minors who have been released is secured by permanent delegates and other delegates volunteering in the field of supervised release, under the authority of the juvenile judge.

The permanent delegates, who are state agents appointed by the Justice Ministry, have the duty of directing and coordinating the action of the delegates; they are also in charge of the rehabilitation of the minors entrusted to them personally by the judge. The volunteer delegates are selected among adult persons of either sex; they are appointed by the juvenile judge. In each case, the delegate is designated wither immediately with the judgment, or later on by order of the juvenile judge, especially in the case of delegation for competence outlined in article 31.

The transportation expenses incurred by the permanent delegates and by the other delegates involved in the supervised release, and the moving expenses incurred by the permanent delegates in their work of direction and coordination of the action of all delegates are reimbursed under the conditions outlined by the general regulation concerning the reimbursement of expenses incurred by the civilian employees of the State during their travels.

A decree from the keeper of the seals, the Justice Secretary, the Secretary of Finances and Economic Affairs will determine the conditions under which this regulation can be by-passed to take into account the circumstances under which the permanent delegates and other delegates accomplish some of their travels.

Article 26:

In all cases when the regime of supervised release is decided upon, the minor, his parents, his guardian, the person who is taking care of him, will be notified of the character and purpose of this measure and of the obligations it entails.

The delegate responsible for the supervised release will submit a report to the juvenile judge in case of bad behavior, moral jeopardy of the minor, systematic obstacles to the function of supervision, as well as in the case when a placement or custody modification seems useful to him. In case of death, serious illness, change of address or non-authorized absence of the minor, the parents, guardian, custodian or employer must immediately notify the delegate.

If an incident during the supervised release shows a characterized supervision deficiency from the parents, or guardian or custodian, or systematic obstacles to the duties of the delegate, the juvenile judge or the

juvenile court may, whatever the decision taken toward the minor, fine the parents or guardian or custodian in the amount of 10 francs to 500 francs.

Article 27:

The measures of protection, assistance, supervision, education or rehabilitation ordered toward the minor may be revised at any moment, subject to the following provisions.

When one year at least has passed since the implementation of the decision to keep the minor away from his family, his parents or the guardian or the minor himself may file a request of penalty reduction or custody restoration by giving proof of their aptitude to raise their child and of a sufficient improvement of the latter. In the case of a rejection, the same request can be renewed only after one year.

Article 28:

The juvenile judge may, either ex-officio, or at the request of the public ministry, the minor, his parents, his guardian or the person who is keeping him, or on the strength of the report from the delegate in charge of the supervised release, decree on all the incidents, requests of modification of placements or custody, requests of custody reduction. The juvenile court is eventually vested with the same right.

However the juvenile court alone will be competent when there is cause to take one of the other measures outlined in articles 15 and 16 toward a minor who had been left in the custody of his parents, his guardian or a trusted person.

Article 29:

Repealed.

Article 30:

Repealed.

Article 31:

Are competent to decree on all incidents, requests of modification of placement or custody, requests for custody reduction:

1) The juvenile judge or the juvenile court who had issued the original decree.
2) In the case of a jurisdiction of non-permanent character or when the original decision comes from an appeal court, the competence will-belong to the juvenile judge or juvenile court near the parents' residence or the minor's present address.
3) Upon delegation of competence granted by the juvenile judge or

juvenile court having issued the original decision, the juvenile judge or juvenile court near the parents' residence, the residence of the person, or foundation, or establishment, or institution who was keeping the minor by judicial decision, as well as the juvenile judge or juvenile court near the actual location where the minor lives or has been arrested. If the case requires haste, all temporary measures may be ordered by the juvenile judge near the actual location where the minor lives or has been arrested.

Article 32:

The provisions of articles 22, 23 and 24 are applicable to the rendered decisions on incidents happening during the supervised release, requests of modification of placement or custody, requests for custody reduction.

Chapter 5- Various provisions -

Article 33:

No application

Articles 34 to 36:

Repealed.

Article 37:

In cases of violations the prosecution of which is reserved to public administrations according to the laws in force, the public prosecutor alone will be qualified to prosecute upon the complaint of the administration concerned.

Article 38:

In every court, the court clerk will keep a special register, not accessible to the public, the model of which will be established by ministerial decree and in which will be entered all decisions concerning minors, including those pertaining to incidents related to supervised release, requests of modification of placement or custody and requests of custody reduction.

Article 39:

Any person, agency or institution, even if officially designated as of public service, who accepts to shelter in the usual way minors in accordance with the present regulation, must obtain from the prefect (administrative officer)

a special permission under conditions to be defined by decree. This provision is equally applicable to persons, agencies and institutions performing their duties at the present time under the law dated 22 July 1912.

Article 40:

In all eases where the minor is placed temporarily or permanently with a person other than his father, mother, guardian, or a person other than the first one who was keeping him, the decision must determine the portion of living and placement expenses that is the responsibility of the family.

These expenses are recuperated as criminal justice expenses to go to the State Treasury.

The family allowances, increased allowances and assistance allowances to which the minor is entitled will be, in any case, paid directly by the administrative debtor to the person or institution who is in charge of the minor during his placement.

When the minor is placed with the juvenile protection agency, the portion of living and placement expenses that is not due by the minor's family is paid by the State Treasury.

Article 41:

Decrees will determine the measures of implementation of the present regulation, and especially the conditions of reimbursement of living, education and supervision expenses of minors placed with persons, institutions or services, in application with the present regulation.

Article 42:

Are repealed the law dated 22 July 1912 and the texts that completed and modified it, and also the law dated 5 August 1850 on education and protection of young delinquents.

The present regulation will be applicable to the extraterritorial departments

Appendix C

German Juvenile Justice Policy

Part I. Scope of applicability

Section 1. Scope of applicability as to persons and subject matter.

(1) This law applies if juvenile or an adolescent commits a delinquency which, pursuant to the general provisions, is subject to punishment.

(2) Juvenile is who, at the time of the act, is 14 but not yet 18 years of age; adolescent is who is 18 but not yet 21 years of age at the time of the act.

Section 2. Application of general law.

The general provisions apply only insofar as not otherwise provided for in this law

Part II. Juveniles.

Subpart I. Delinquencies committed by juveniles and the consequences thereof.

Chapter I. General provisions.

Section 3. Responsibility.

A juvenile is responsible pursuant to criminal law if, at the time of the act, he is morally and mentally sufficiently mature to understand the wrongfulness of his act and to act according to this understanding. Concerning the education of a juvenile who is not responsible pursuant to criminal law due to lack of maturity, the judge can order the same measures as the judge of the guardianship court.

Section 4. Legal subsumption of the juvenile criminal act.

The provisions of the general criminal law govern as to whether the illegal act committed by a juvenile is considered a felony or misdemeanor and at what time it falls under the prescription.

Section 5. Consequences of the juvenile criminal act.

(1) Corrective disciplinary actions can be ordered when a criminal act has been committed by a juvenile.

(2) The criminal act of a juvenile will be punished by means of correction or by juvenile punishment, if corrective disciplinary actions are not sufficient.

(3) Means of correction and juvenile punishment are refrained from

if commitment to a psychiatric hospital or an institution for curing drug addicts and alcoholics renders the punishment by the judge superfluous.

Section 6. Incidental consequences.

(1) A sentence pronouncing ineligibility to hold public office, to acquire rights resulting from public elections or to vote regarding public affairs must not be imposed. Publication of the conviction must not be ordered.

(2) The loss of the ability to hold public office and to acquire rights resulting from public elections (Section 45, paragraph 1, Criminal Code) does not occur.

Section 7. Disciplinary actions involving reformation and protection of the general public.

As disciplinary actions involving reformation and protection of the general public within the meaning of general criminal law, commitment to a psychiatric hospital or an institution for curing drug addicts and alcoholics, supervision of conduct or withdrawal of the permission to drive can be ordered (Section 61, numbers 1, 2, 4 and 5, Criminal Code).

Section 8. Combining measures with juvenile punishment.

(1) Corrective disciplinary actions and means of correction as well as

several corrective disciplinary actions or several means of correction, can be ordered in combination with each other. Juvenile detention must not be combined with the order to reformatory education.

(2) The judge can, besides juvenile punishment, issue only instruction and conditions and order disciplinary guidance. If the juvenile is on probation, a concurrently existing disciplinary guidance stays until expiration of the period of probation.

(3) The judge can, besides corrective disciplinary actions, means of correction and juvenile punishment, impose the subsidiary sentences and incidental consequences admissible pursuant to this law.

Chapter II. Educational measures.

Section 9. Types.

Educational measures are

1. The administration of instruction,
2. The order, help for education in the sense of Section 12 to lay claim to

Section 10. Instructions.

(1) Instructions are orders and prohibitions which guide the life of the juvenile and thereby further and secure his education. Thereby not undue requirements should be placed on the juvenile's way of life The

judge can specifically order the juvenile

1. to comply with instructions concerning the place of abode,
2. to live with a family or in a home,
3. to accept apprenticeship or a job,
4. to accomplish specific work,
5. the care and supervision of a certain person (care-giver)
6. to participate in a social training course
7. to try to achieve compensation with a victim-offender mediation
8. to discontinue association with certain individuals or to refrain form visiting restaurants and place of entertainment or
9. in cases of a violation of traffic laws, to attend a class on traffic regulations.

(2) With the approval of the parents/legal guardian and the legal representative, the judge can also direct the juvenile to undergo social-therapeutic treatment by an expert or treatment for drug addicts and alcoholics. If the juvenile has completed the 16th year of age, this shall take place only with his consent.

Section 11. Duration and subsequent change of instructions; consequences of contravention.

(1) The judge determines the duration of the instructions The duration must not exceed 2 years.

(2) The judge can change instructions or release the individual from compliance therewith or extend their duration before expiration up to 3 years if this is required for reasons of education.

(3) Juvenile detention can be imposed if the juvenile, through his own fault, fails to comply with instructions, if he was previously advised of the consequences of culpable contravention. Juvenile detention imposed hereafter must not exceed a total a 4 weeks in case of a conviction. The judge can refrain from executing juvenile detention if the juvenile complies with the instruction after imposition of the detention.

Section 12. Help for education.

The judge can also impose the young person, after hearing from the youth welfare office, requirements for education as specified by the social legislation books.

1. In the form of education assistance, in the sense of Section 30 noting the social legislation books.

2. In a 24-hour, residential facility or in another supervised living arrangement in the sense of Section 34 of the social legislation books.

Chapter III. Means of correction.

Section 13. Types and application.

(1) The judge punishes the criminal act by means of correction if juvenile punishment is not required, yet the juvenile must insistently be made aware of the fact that he has to be responsible for the wrong he committed.

(2) Means of correction are

1. the admonition,

2. the imposition of conditions,

3. juvenile detention.

(3) Means of correction do not have the legal effect of a punishment.

Section 14. Admonition.

By the admonition, the wrongfulness of the act shall be insistently impressed upon the juvenile.

Section 15. Conditions.

(1) The judge can impose upon the juvenile the obligation

1. to make restitution to the best of his ability for the damage caused by the act,

2. to personally apologize to the injured party or

3. to provide work (community service)

4. to pay an amount for the benefit of a charitable organization.

Thereby no undue requirements should be placed on the juvenile

(2) The judge shall order payment of a sum of money only if

1. The juvenile has committed a minor delinquency and it is to be assumed that he pays the money from funds he controls independently, or

2. the profit the juvenile has gained from his act or the money he received therefor shall be take away from him.

(3) The judge can subsequently exempt the juvenile in whole or in part from compliance with conditions if this required for reasons of education. In case of culpable noncompliance with conditions, Section 11, paragraph 3, applies accordingly. If juvenile detention has been executed, the judge can declare the conditions completed in whole or in part.

Section 16. Juvenile detention.

(1) Juvenile detention is free time detention, short-term detention or long-term detention.

(2) Free time detention will be imposed for the weekly free time of the juvenile and will be assessed to at least 1 but not more than 4 periods of free time.

(3) Short-term detention will be imposed in lie of free time detention if the coherent execution is deemed appropriate for educational reasons and neither the juvenile's vocational training nor his work are affected. 2 days of short-time detention are equal to 1 free time detention However, the total short-term detention must not exceed 6 days.

(4) Long-term detention is 1 week at a minimum and 4 weeks at a maximum. It is assessed in full days or weeks.

Chapter IV. Juvenile punishment.

Section 17. Form and prerequisites.

(1) Juvenile punishment is deprivation of liberty in a juvenile confinement facility.

(2) The judge imposes juvenile punishment if, due to the detrimental inclinations of the juvenile as revealed by the act, corrective disciplinary actions or means of correction are not sufficient for education or if, due to the seriousness of the guilt, punishment is required.

Section 18. Duration of juvenile punishment.

(1) The minimum term of juvenile punishment is 6 months, the maximum term is 5 years. If the act involves a felony for which the provisions of the general criminal law provide a maximum sentence of more than 10 years of imprisonment, the maximum term is 10 years. The scopes of punishment delineated in the general criminal law do not apply.

(2) Juvenile punishment is to be assessed in such a way that the required correctional effect is possible.

Section 19. Rescinded.

Chapter V. Suspension of juvenile punishment on probation.

Section 20. Rescinded.

Section 21. Suspension of the sentence.

(1) If juvenile punishment for a definite period not exceeding 1 year is imposed, the judge suspends execution of the sentence on probation if it is to be expected that the juvenile will let the conviction as such serve him as a warning and it, without the effect of the execution of sentence, he will lead a righteous life in the future due to educational influence during the period of probation. Particularly, the personality of the juvenile, his prior life, the circumstances of his act, his conduct after the act, his life situation and the anticipated effect of the suspension on him have to be taken into consideration.

(2) Under the prerequisites of paragraph 1, the judge can also suspend on probation the execution of juvenile punishment for a longer definite period not to exceed 2 years if special circumstances exist in respect to the act and the personality of the juvenile

(3) Suspension of the sentence cannot be restricted to a part of the juvenile punishment. It will not be precluded by a credit for pretrial

confinement or any other deprivation of liberty.

Section 22. Period of probation.

(1) The judge determines the period of probation. It must not exceed 3 years and must not be less than 2 years.

(2) The period of probation commences with the decision concerning suspension of the juvenile punishment becoming final. It can be subsequently reduced to 1 year or increased up to 4 years before probation may be reduced to not less than 2 years.

Section 23. Instructions and conditions.

(1) During the period of probation the judge shall exert a corrective influence on the juvenile's conduct by giving instructions. He can also impose conditions on the juvenile. He can also issue, change or reverse these orders subsequently. Sections 10, 11, paragraph 3, and Section 15, paragraphs 1, 2, 3, sentence 2, apply accordingly.

(2) If the juvenile makes promises regarding his future conduct or if he declares himself willing to perform adequate tasks which serve as a satisfaction for the committed wrong, the judge, as a rule, refrains from imposing instructions or conditions for the time being if compliance with the assurances or proposals is to be expected.

Section 24. Assistance during probation.

(1) The judge places the juvenile for a maximum term of two years under supervision and guidance of a full-time probation officer during the period of probation. He can also place him under the control of an honorary probation officer if this appears to be advisable for reasons of education. Section 22, paragraph 2, sentence 1 is to be applied.

(2) The judge can modify or reverse a ruling issued according to paragraph 1 prior to the expiration of the period under supervision; he can also place the juvenile under supervision again during the probation period. The maximum specified in paragraph 2, sentence 1 can be exceeded in this instance.

(3) The probation officer guides and assists the juvenile. In concert with the judge, he supervises the compliance with instructions, conditions, promises and proposals. The probation officer shall further the education of the juvenile and cooperate, if possible, with the parents/legal guardian and legal representative on a confidential basis. In the performance of office, he has the right to visit the juvenile. He can demand information as to the juvenile's conduct from the parents/legal guardian, the legal representative, the school, his master/employer or any other person in charge of the juvenile's vocational training.

Section 25. Appointment and responsibilities of the probation officer.

The probation officer is appointed by the judge. The judge can give him instructions for his activity pursuant to Section 24, paragraph 2. At intervals to be determined by the judge, the probation officer reports concerning the juvenile's conduct. He informs the judge of any major or persistent contravention of instructions, conditions, promises and proposals.

Section 26. Revocation of the suspension of the sentence.

(1) The judge revokes suspension of the juvenile punishment is the juvenile.

1. commits a criminal act during the period of probation, thereby showing that the expectation on which the suspension of the sentence was based has not been met,

2. grossly or persistently violates instructions or persistently evades the supervision and guidance of the probation officer, thus giving rise to the concern that he will commit criminal acts again, or

3. grossly or persistently violates conditions.

Sentence 1, number 1 is to be applied if the criminal act was committed during the time between the decision to suspend the sentence and the legal force of this decision.

(2) The judge, however, refrains from revocation if it suffices to

1. impose further instructions or conditions

2. extend the period of probation or placement under supervision up to a maximum of four years

3. place the juvenile under the supervision of a probation officer again prior to the expiration of the probation period.

(3) Services rendered by the juvenile in compliance with instructions, conditions, promises or proposals (Section 23) will not be compensated. However, if he revokes the suspension of the sentence, the judge can credit such services which the juvenile rendered in compliance with conditions or corresponding proposals toward the juvenile punishment.

Section 26a. Remission of juvenile punishment.

If the judge does not revoke the suspension of the sentence, he remits the juvenile punishment after expiration of the period of probation. Section 26, paragraph 3, sentence 1, is to be applied.

Chapter VI. Suspension of imposition of juvenile punishment.

Section 27. Prerequisites.

If, after completion of all aspects of investigation, no definite determination can be made if from the criminal act committed by the juvenile, detrimental

inclinations emerged to an extent that impositions of juvenile punishment is required, the judge can determine the guilt of the juvenile, but suspend his decision concerning imposition of juvenile punishment for a period of probation to be determined by him.

Section 28. Period of probation.

(1) The period of probation must not exceed 2 years and should not be less than 1 year.

(2) The period of probation commences with the legal force of the judgment establishing the juvenile's guilt. It can be subsequently reduced to 1 year or be increased up to 2 years before its expiration.

Section 29. Assistance during probation.

For the duration of the period of probation, the juvenile is place under the supervision and guidance of a probation officer. The provisions of Sections 23 to 25 are to be applied.

Section 30. Imposition of juvenile punishment; extinction of the general verdict.

(1) If, primarily through the juvenile's bad conduct during the period of probation, it is determined that the act of which the juvenile was found guilty is attributable to the detrimental inclinations to an extent that juvenile

punishment is required, the judge imposes the same sentence he would have adjudged originally, had he known of the juvenile's detrimental inclinations at the time of the general verdict. Suspension of this sentence pursuant to Section 21 is inadmissible.

(2) If, after expiration of the period of probation, the prerequisites delineated in paragraph 1 do not exist, the general verdict will be extinguished.

Chapter VII. Several criminal acts.

Section 31. Several criminal acts committed by a juvenile.

(1) Even if a juvenile has committed several criminal acts, the judge imposes only one type of sentence, i.e. corrective disciplinary actions, means of correction or juvenile punishment Insofar as admissible by this law (Section 8), different means of correction and corrective disciplinary actions can be ordered in combination with each other or measures be combined with the sentence. The legal maximum limits of juvenile detention and juvenile punishment must not be exceeded.

(2) If the guilt of the juvenile has already been finally determined for a part of the criminal acts or if a corrective disciplinary action, means of correction or juvenile punishment have been imposed but have not been completely executed, served or otherwise disposed of, measures or juvenile

punishment will be, under incorporation of the judgment, uniformly imposed. If the judge imposes juvenile punishment, it is in his discretion to credit juvenile detention already served.

(3) If it is advisable for educational reasons, the judge can refrain from including in the new decision criminal acts which have already been tried. If he imposes juvenile, he can declare that corrective disciplinary actions and means of correction have been completed.

Section 32. Several criminal acts committed at different age and maturity levels.

In cases where several criminal acts are tried simultaneously and for which both youth criminal law and general criminal law would have to be applied, youth criminal law applies uniformly if the most serious criminal acts are those which would have to be tried pursuant to youth criminal law. If this is not the case, general criminal law is to be applied uniformly

Subpart II. Structure of youth courts and youth criminal proceedings.

Chapter I. Structure of youth courts.

Section 33. Youth courts

(1) Delinquencies committed by juveniles are tried by youth courts.

(2) Youth courts consist of the criminal court judge functioning as the youth court judge, the lay assessors court (youth lay assessors court), and the penal chamber (youth chamber).

(3) The state governments are authorized to prescribe by legal ordinance that a judge at 1 district court be appointed as youth court judge for an area comprising several district courts (area youth court judge) and that a common youth lay assessors court be established at 1 district court for the area comprising several district courts. The state governments can delegate the authorization by legal ordinance to the state agencies responsible for administration of justice.

Section 33a.

(1) The youth lay assessors court is composed of the youth court judge as the presiding judge and two youth lay assessors. At each trial, a man and a woman are to function as lay assessors.

(2) The youth lay assessors do not participate in decisions outside the trial.

Section 33b.

(1) The youth chamber is composed of three judges including the presiding judge and two youth lay assessors (major chamber); it is

composed of the presiding judge and two youth lay assessors (minor youth chamber) for procedures regarding appeals against judgments by the youth court judge.

(2) At the opening of the trial, the major youth chamber determines that at the trial, it will be composed of two judges including the presiding judge and two youth lay assessors, unless the matter is within the jurisdiction of a jury according to the general provisions, including the provisions of Section 74e, Law Governing the Structure of the Judiciary, or it the scope or the complexity of the matter necessitate the participation of a third judge.

(3) Section 33a, paragraph 1, sentence2, paragraph 2 is to be applied.

Section 34. Responsibilities of the youth court judge.

(1) The same responsibilities are incumbent upon the youth court judge as are on a judge at the district court in criminal proceedings.

(2) If possible, the youth court judge shall, at the same time, also be the judge of the guardianship court. If this is not feasible, he shall be assigned the responsibilities of a guardianship court regarding the education of the juveniles. For special reasons, particularly if the youth court judge is assigned to a district comprised of several district courts, this rule can be deviated from.

(3) Responsibilities of the judge of a guardianship court concerning

education are

1. the support of parents, guardian and the curator by application of appropriate disciplinary actions (Section 1631), paragraph 3, Sections 1800, 1915, Civil Code),

2. the measures for prevention of endangerment of the minor (Sections 1666, 1666a, 1915, Civil Code)

Section 35. Youth court lay assessors.

(1) The lay assessors in youth courts are elected upon suggestion of the juvenile welfare committee for the duration of 4 business years by a board provided for in Section 40, Law governing the Structure of the Judiciary. It shall elect an equal number of men and women.

(2) The juvenile welfare committee shall recommend as many men and women and at least double the number of persons required as lay assessors and assistant lay assessors in youth courts. The recommend persons shall be qualified for and experienced in the education of juveniles

(3) As nomination list prepared by the juvenile welfare committee is considered the list of suggested names as set forth in Section 36, Law governing the Structure of the Judiciary. For the inclusion of a name in the list, the consent of two-thirds of the members having the right to vote is required. The list of suggested lay assessors is to be exhibited in the juvenile welfare office for review by the public for 1 week. The date of

availability of the list of review is to be published prior thereto.

(4) The youth court judge presides over the juvenile welfare committee as well as in electing the youth court lay assessors and assistant youth court lay assessors.

(5) The lay assessors in youth courts will be registered in separate lists for men and women.

Section 36. District attorney in youth courts.

District attorneys in youth courts are appointed for proceedings which fall under the jurisdiction of youth courts.

Section 37. Selection of youth court judges and district attorneys in youth courts.

Judges and district attorneys in youth courts shall be qualified for and experienced in the education of juveniles.

Section 38. Assistance to youth courts.

(1) Assistance to youth courts is furnished by the juvenile welfare office in coordination with the associations for assistance to juveniles.

(2) At the proceedings before the youth courts, the representatives of the assistance to youth courts introduce the correctional, educational, social and welfare aspects of the case. For this purpose they assist the

governmental agencies concerned by investigating the personality, the development and the environment of the defendant and comment on the measures to be taken. If no probation officer is assigned, they ensure that the juvenile follows instructions and conditions. They inform the judge of serious contraventions. During the period of probation, they work in close cooperation with the probation officer. During the execution they stay in contact with the juvenile and assist in his integration in society

(3) The assistance to youth courts is to be consulted throughout the proceedings against the juvenile This shall be done as early as possible. The representatives of the assistance to youth courts are always to be heard before the issue of instructions (Section 10).

Chapter II. Jurisdiction.

Section 39. Material jurisdiction of the youth court judges.

(1) The youth court judge has jurisdiction concerning delinquencies of a juvenile if only corrective disciplinary actions, means of correction, subsidiary sentences and the incidental consequences thereof as admissible pursuant to this law or the withdrawal of the permission to drive are to be expected and if the district attorney prefers the indictment to the criminal court judge. The youth court judge has no jurisdiction over cases against juveniles and adults who, pursuant to Section 103, are combined if,

pursuant to the general provisions, the judge at the district court would not have jurisdiction pertaining to adults. Section 209, paragraph 2, Code of Criminal Procedure, applies accordingly

(2) The youth court judge must not impose juvenile punishment exceeding 1 year or for an indefinite period; he must not order commitment to psychiatric hospital.

Section 40. Material jurisdiction of the youth lay assessors court.

(1) The youth lay assessors court is the competent court for all delinquencies that do not fall under the jurisdiction of another youth court. Section 209, Code of Criminal Procedures, applies accordingly.

(2) Until the opening of the main proceedings, the youth lay assessors court can by reason of office, bring about a decision by the youth chamber as to whether it will take over a case in view of its special scope.

(3) Before issue of the decree concerning referral of the case, the presiding judge of the youth chamber requests the defendant to render a statement within a set time limit as to whether he wants to move that specific evidence be taken before the trial.

(4) The decree of the youth chamber as to whether it assumes or waives jurisdiction over the case is not contestable The decree concerning the referral of the case is to be combined with the decree opening the proceedings.

Section 41. Material jurisdiction of the youth chamber.

(1) As the court of first instance, the youth chamber is the competent court in cases

1. which, pursuant to the general provisions, including the regulation of Section 74e, Law governing the Structure of the Judiciary, come under the jurisdiction of the jury court,

2. which, after submission by the youth lay assessors court, due to their special scope, have been accepted by the youth chamber (Section 40, paragraph 2) and

3. against juveniles and adults which pursuant to Section 103, are combined if, pursuant to the general provisions, a major penal chamber would have jurisdiction over the adults.

(2) Moreover, the youth chamber is also competent for the trial and decision concerning the means of redress of appeal against the judgments of the youth court judge and of the youth lay assessors court. It also renders the decision set forth in Section 73, paragraph 1, Law governing the Structure of the Judiciary.

Section 42. Venue.

(1) Besides, the judge who, pursuant to general procedural law or pursuant to special provisions, exercises jurisdiction, are competent

1. the judge who, in his function as the judge of the guardianship court, is in charge of education of the defendant,

2. the judge of the area in which the defendant, being at liberty, is residing at the time the indictment is preferred,

3. as long as the defendant has not completely served a juvenile punishment, the judge who has the duties of the officer in charge of execution.

(2) If possible, the district attorney shall prefer the indictment to the judge of the guardianship court who is in charge of educational responsibilities; however, as long as the defendant has not yet completely served a juvenile punishment, before the judge who has the duties of the officer in charge of execution.

(3) If the accused on trial changes his abode, the judge can, with the consent of the district attorney, refer the case to the judge of the area where the accused on trial resides. If the judge to whom the case has been referred has any objection against handling the case, the next common superior court decides the issue.

Chapter III. Youth criminal proceedings.

Subchapter I. Preliminary proceedings.

Section 43. Scope of investigations.

(1) As soon as possible after initiation of the proceedings, the defendant's way of life and family conditions, his development, his behavior up to the present time and all other circumstances which might possible serve the assessment of his moral and mental qualities as well as traits of character shall be investigated. As far as possible, the parents/legal guardian and legal representative, the school instructor or master/employer or any other person concerned with the juvenile's vocational training shall be heard. Hearing of the master/employer or the instructor is omitted if the juvenile would be put in fear that undesired detriments may thereby be caused to him, especially the loss of his employment. Section 38, paragraph 3, is to be observed.

(2) If necessary, a medical examination of the defendant is to be effected, primarily in order to establish the degree of his development or any other peculiarities essential for the proceedings. If possible, an expert who is qualified to conduct criminal-biological examinations of juveniles shall be charged with the execution of this order.

Section 44. Examination of the defendant.

If juvenile punishment is expected to be imposed, the district attorney or the presiding judge of the youth court shall examine the defendant before the indictment is preferred.

Section 45. Refraining from prosecution.

(1) The district attorney can refrain from prosecution without concurrence of the judge if the prerequisites delineated in Section 153, Code of Criminal Procedure, prevail.

(2) The district attorney refrains from prosecution if a correctional measure has already been completed or ordered, and he considers neither the participation of the judge according to paragraph 3, nor the bringing of an indictment necessary. The juvenile's effort to compensate the injured party is equivalent to a correction measure.

(3) If the defendant has confessed and if the district attorney considers the order of such a judicial measure necessary, but deems a punishment by conviction dispensable, the district attorney suggests that the youth court judge issue an admonition, or instructions according to Section 10, paragraph 1, sentence 3, numbers 4, 7, 9, or impose conditions. If the youth court judge complies with the suggestion, the district attorney refrains from prosecution. In cases where instruction or conditions were imposed, the district attorney refrains from prosecution only after the juvenile has complied with them. Section 11, paragraph 3 and Section 15, paragraph 3, sentence 2 are not to be applied. Section 47, paragraph 3 is to be applied.

Section 46. Essential result of investigations.

In the bill of indictment (Section 200, paragraph 2, Code of Criminal Procedure), the district attorney shall present the essential result of the investigations in such a way that, if possible, the defendant's knowledge thereof causes no detriments to his education.

Subchapter II. Main proceedings.

Section 47. Discontinuance of the proceedings by the judge.

(1) If the indictment has been preferred, the judge can discontinue the proceedings is

1. the prerequisites delineated in Section 153, Code of Criminal Procedure, prevail,

2. a correctional measure according to Section 45, paragraph 2, which makes punishment by conviction unnecessary, has already been completed or ordered,

3. the judge deems imposition of a punishment by conviction dispensable and orders that one of the measures set forth in Section 45, paragraph 3, sentence 1, be imposed on the juvenile if he has confessed, or

4. the accused on trial is not responsible pursuant to criminal law due to lack of maturity.

In cases involving sentence 1, numbers 2 and 3, the judge can, with concurrence of the district attorney, discontinue the proceedings on a provisional basis, and he can specify a period of up to six months within which the juvenile must comply with the conditions, instructions, or correctional measures. A court order is issued with regard to the decision. The order is not contestable. If the juvenile complies with the conditions, instructions, or correctional measures, the judge discontinues the proceedings. Section 11, paragraph 3 and Section 15, paragraph 3, sentence 2, are not to be applied.

(2) Discontinuance of the proceedings requires concurrence of the district attorney, if he has not already agreed to a provisional discontinuance. The decree concerning discontinuance can even be issued during the course of the trial. It is supported by reasons and is not contestable. The reasons are not communicated to the accused on trial insofar as is to be feared that such information might cause detriments to his education.

(3) A new indictment can be preferred for the same act only on the basis of new facts or evidence.

Section 47a. Priority of youth courts.

A youth court cannot not declare lack of jurisdiction after the opening of the main proceedings for the reason that the case belongs to a court of the

same or lower instance which has general criminal jurisdiction. Section 103, paragraph 2, sentences 2, 3 remain unaffected.

Section 48. Closed court.

(1) The proceedings before the trial court including the announcement of the decisions are not public.

(2) Besides the parties involved in the proceedings, the injured party, criminal police officers and, if the accused on trial is placed under the supervision and guidance of a probation officer or if an officer exercising disciplinary guidance is appointed for him, the probation officer and the officer exercising disciplinary guidance are authorized to be present. For special reasons, particularly for training purposes, the presiding judge can give permission for other parties to attend.

(3) In the event of that adolescents or adults are also indicted in the same proceedings, the trial is held in open court. The public can be excluded if this is in the best interest of the education or the juvenile accused on trial.

Section 49. Administering oath to witnesses and experts.

(1) In proceedings before a youth court judge, witnesses are taken under oath only in cases where the judge deems it necessary due to the decisive significance of the testimony or in order to ensure obtaining a true

statement. The judge can, in any case, refrain from administering the oath to experts.

(2) In the event that adolescents or adults are also indicated in the same proceedings, paragraph 1 above is not to be applied.

Section 50. Presence at the trial.

(1) The trial can be held in the absence of the accused on trial only if this were admissible in general proceedings, if special reasons therefor exist and if the district attorney concurs.

(2) The presiding judge shall also order the summons of the parents/legal guardian and the legal representative. The provisions concerning the summons, the consequences of the failure to appear and the compensation to witnesses apply accordingly

(3) The representative of the assistance to youth courts is to be informed about the date and location of the trial. Upon demand, he received permission to speak.

(4) If an appointed probation officer attends the trial, he shall be consulted regarding the development of the juvenile during probation Sentence 1 is to be applied with regard to an appointed probation officer and the director of a social training class which the juvenile attends.

Section 51. Temporary exclusion of parties involved.

(1) The presiding judge shall exclude the accused on trial from the trial during discussions the contents of which can cause detriments to his education. He has to inform him of the matters in his absence as far as this is required for his defense.

(2) The presiding judge shall also exclude the dependents of the accused on trial, parents/legal guardian and the legal representative from the trial if there are any doubts or misgivings concerning their presence.

Section 52. Credit for pretrial confinement in case of juvenile detention. If juvenile detention is adjudged and the purpose thereof is attained, in whole or in part, by pretrial confinement or by any type of deprivation of liberty served as a result of the act, the judge can state in the judgment that or to what extent juvenile detention will not be executed.

Section 52a. Credit pretrial confinement in case of juvenile punishment.

(1) If the accused on trial, as a result of the act which is or has been the subject of the proceedings, suffered pretrial confinement or another deprivation of liberty, it will be credited to the juvenile punishment. However, the judge can order that the credit is dropped in whole or in part, if it is not justified in view of the conduct of the accused on trial after the act or for educational reasons. Educational reasons as a rule exist if,

crediting the deprivation of liberty, the educational effect on the accused on trial still required is not guaranteed.

(2) If juvenile punishment for an indefinite period is imposed, credit only effects the maximum term. However, the judge can determine that the credit, in whole or in part, also has effect on the minimum term.

Section 53. Referral to the judge of the guardianship court.

If the judge does not impose juvenile punishment, he can, by judgment, leave the choice of the corrective disciplinary actions and the order for their execution to the judge of the guardianship court. The judge of the guardianship court must then order the execution of a corrective disciplinary action if the circumstances on which the judgment was based have not changed

Section 54. Reasons for judgment.

(1) If the accused on trial is found guilty, it will also be reflected in the reasons for judgment which circumstances were determinant for the sentence, for the measures imposed, for the referral of choice and order thereof to the judge of the guardianship court or for refraining from means of correction and punishment. The mental, intellectual and physical characteristics of the accused on trial shall be particularly taken into consideration.

(2) The reasons for the judgment will not be communicated to the accused on trial insofar as detriments to the education are to be feared.

Subchapter III. Procedure concerning means of redress.

Section 55. Contestation of decisions.

(1) A decision ordering merely corrective disciplinary actions or means of correction or leaving the choice and ordering of corrective disciplinary actions in the discretion of the judge of the guardianship court cannot be contested as to the scope of the measures nor can it be contested for the reason that other or additional corrective disciplinary actions or means of correction should have been ordered or because the choice and the ordering of corrective disciplinary actions have been left to the discretion of the judge of the guardianship court. This rule does not apply if the decision ordered reformatory education.

(2) A party who has filed an admissible appeal can no longer file an appeal on the question of law against a judgment on appeal. If the accused on trial, the parents/legal guardian or the legal representative have filed an admissible appeal, none of them is entitled to the means of redress of appeal on the question of law against the judgment on appeal.

(3) The parents/legal guardian or the legal representative can withdraw the means of redress filed only with the consent of the accused on trial.

Section 56. Partial execution of an aggregate punishment.

If an accused on trial has been sentenced to an aggregate punishment for several criminal acts, the appellate court may declare before the trial that the judgment is executable as to a part of the sentence if the findings of guild concerning one criminal act or several criminal acts have not been objected to. The order is admissible only if it serves the best interest of the accused on trial The partial sentence must not exceed the sentence that would have been imposed for those criminal acts as to which there was no objection to the findings of guilt.

(3) Immediate appeal against the decree is admissible.

Subchapter IV. Procedure concerning suspension of juvenile punishment on probation.

Section 57. Decision concerning suspension

(1) The suspension of juvenile punishment on probation will be ordered in the judgment or, as long as execution of the sentence has not yet commenced, subsequently by decree. The judge who tried the case in the first instance is competent for the subsequent decree The district attorney and the juvenile are to be heard.

(2) If the judge has rejected the suspension by judgment, its subsequent

order is admissible only if, since the time of the judgment has been adjudged, circumstances were revealed which, alone or in connection with the prior know circumstances, justify suspension of the juvenile punishment on probation.

(3) If instructions or conditions (Section 23) come into consideration, the juvenile is to be asked in appropriate cases whether he is willing to make assurances as to his future conduct or whether he declares himself willing to perform tasks that serve as satisfaction for the committed wrong If the instruction to submit to a social-therapeutic treatment or a cure for drug addicts and alcoholics comes into consideration, the juvenile who has completed his 16th year of age is to be asked as to whether he consents to such treatment.

Section 58. Additional decisions.

(1) Decisions which become necessary due to the suspension (Section 22, 23, 26, 26a) are made by the judge by decree. The district attorney, the juvenile and the probation officer are to be heard. The decree is to be substantiated.

(2) The judge initiates the execution of the temporary measures pursuant to Section 453c, Code of Criminal Procedure.

(3) The judge who has ordered the suspension is competent. He can transfer the decisions, wholly or in part, to the youth court judge in the

area in which the juvenile resides. Section 42, paragraph 3, sentence 2, applies accordingly.

Section 59. Contestation.

(1) Immediate appeal is admissible against a decision by which suspension of juvenile punishment is ordered or rejected if only the decision is contested. The same applies if a judgment is contested merely because the sentence has not been suspended

(2) Appeal is admissible against a decision concerning the period of probation (Section 22), the instructions or conditions (Section 23). It can be based only upon the fact that the period of probation has been extended subsequently or that one of the orders is illegal.

(3) Immediate appeal is admissible against revocation of the suspension of juvenile punishment (Section 26, paragraph 1).

(4) The decree concerning remission of juvenile punishment (Section 26a) is not contestable.

(5) If an admissible appeal on questions of law is filed against a judgment and appeal initiated against a decision concerning suspension of juvenile punishment on probation ordered by that judgment, the court of appeals on questions of law is also competent to rule on appeal.

Section 60. Probation program.

(1) The presiding judge prepares a probation program specifying the instructions and conditions given. He gives the program to the juvenile and instructs him at the same time of the significance of the suspension, the period of probation, the instructions and conditions, as well as about the possibility of the revocation of the suspension He is to be instructed at the same time to report any change of abode or place of work during the period of probation. Also regarding subsequent changes of the probation program, the juvenile is to be advised of the substance thereof.

(2) The name of the probation officer will be listed in the probation program.

(3) The juvenile shall confirm by his signature that he has read the probation program and promise that he intends to comply with the instructions and conditions. Also the parents/legal guardian and the legal representative shall sign the probation program.

Section 61. Rescinded.

Subchapter V. Procedure concerning suspension of the imposition of juvenile punishment.

Section 62. Decisions.

(1) Decisions pursuant to Sections 27 and 30 are made by the judgment

on the basis of the trial. As to decisions concerning suspension of the imposition of juvenile punishment, Section 267, paragraph 3, sentence 4, Code of Criminal Procedure, applies analogously.

(2) With the consent of the district attorney, extinction of the findings of guilt after expiration of the period of probation can be ordered by decree even without trial.

(3) If a trial held during the period of probation does not reveal the necessity of imposing juvenile punishment (Section 30, paragraph 1), a decree is issued stating that the decision concerning imposition of the sentence remains suspended

(4) For all other decisions required as a result of the suspension of imposition of juvenile punishment, Section 58, paragraph 1, and paragraph 3, sentence 1, applies analogously.

Section 63. Contestation.

(1) A decree, by which the general verdict after expiration of the period of probation is extinguished (Section 62, paragraph 2) or the decision concerning imposition of juvenile punishment remains suspended (Section 62, paragraph 3), is not contestable.

Section 64. Probation program.

Section 60 applies analogously. The juvenile is to be advised as to the

significance of the suspension, the period of probation, the instructions and conditions, and is also to be informed that he will have to expect imposition of juvenile punishment if he conducts himself improperly during the period of probation.

Subchapter VI. Supplemental decisions.

Section 65. Subsequent decisions concerning instructions and conditions.

(1) The judge of the first instance, by decree, renders subsequent decisions referring to instruction (Section 11, paragraphs 2,3) or conditions (Section 15, paragraph 3) after hearing the juvenile and the district attorney. He can transfer the proceedings to the youth court judge in whose area the juvenile resides, in case he has changed his abode. Section 42, paragraph 3, sentence 2, applies accordingly

(2) If the judge has refused to change the instructions, the decree is not contestable. If he has imposed juvenile detention, immediate appeal is admissible against the decree This has a delaying effect.

Section 66. Supplementing final decisions in case of a conviction for several charges.

(1) If the overall assessment of measures or juvenile punishment

(Section 31) has not been imposed and if the corrective disciplinary action, means of correction and punishment adjudged by the final decision have not yet been completely carried out, served or otherwise been disposed of, the judge renders such a decision subsequently. This does not apply insofar as the judge, pursuant to Section 31, paragraph 3, refrained from including criminal acts for which the accused on trial had been previously tried and which had become final.

(2) The decision is passed by judgment on the basis of a trial if the district attorney motions so or the presiding judge deems it appropriate. If no trial is held, the judge decides by decree. Pertaining to jurisdiction and the proceedings concerning the decree, the same applies as for the subsequent establishment of an aggregate sentence pursuant to the general provisions. If juvenile punishment is partially served, the judge who is responsible for the duties of the officer in charge of execution has jurisdiction.

Subchapter VII. Joint provisions concerning proceedings

Section 67. Position of the parents/legal guardian and the legal representative.

(1) To the extent that the defendant has a right to be heard, to ask questions and to file motions or to be present during acts of investigation,

his parents/legal guardian and his legal representative have the same right.

(2) If notification to the defendant is prescribe, the corresponding notification shall be communicated to the parents/legal guardian and the legal representative.

(3) The parents/legal guardian have the same right concerning the choice of a defense attorney and introduction of legal defenses as the legal representative.

(4) The judge can withdraw these rights from the parents/legal guardian and the legal representative if they are suspected of having participated in the delinquency committed by the defendant or if they have been convicted on account of such participation. If the prerequisites delineated in sentence 1 apply to either the parents/legal guardian or the legal representative, the judge can order withdrawal against both if abuse of the rights is to be anticipated. If the parents/legal guardian and the representative are no longer entitled to exercise their rights, the judge of the guardianship court appoints a curator to defend the interests of the defendant in the criminal proceedings pending before the court. The trial has to be suspended until the curator has been appointed.

(5) If several persons are vested with rights and responsibilities pertaining to the juvenile's education, each of them can exercise the rights of parents/legal guardian as provided by this law. At a trial or at any other hearing before the judge, the absent parents/legal guardian is considered

represented by the one who is present. If notifications or summonses are prescribed, it suffices if they are directed to one parents/legal guardian.

Section 68. Mandatory defense.

The presiding judge appoints a defense attorney if

1. a defense attorney would have to be appointed for an adult,

2. pursuant to this law, rights are withdrawn from the parents/legal guardian and the legal representative,

3. for the purpose of preparing an opinion concerning the stage of the mental development of the defendant (Section 73), his commitment to a mental institution is considered, or

4. pretrial confinement or temporary commitment is executed against him according to Section 126a, Code of Criminal Procedure, as long as he has not reached the age of 18 years; the defense attorney is appointed immediately

Section 69. Counsel.

(1) At any stage of the proceedings, the presiding judge can appoint a counsel for the defendant if a mandatory defense is not required.

(2) The parents/legal guardian and the legal representative cannot be designated as counsel if a detriment to the education will have to be expected.

(3) The counsel can be permitted review of the case file. At the trial, he otherwise has the rights of a defense attorney.

Section 70. Notifications.

The judge of the guardianship court and the assistance to youth courts and, it appropriate cases also the school, are notified of the initiation and the outcome of the proceedings. They notify the district attorney if it becomes known to them that another criminal case is pending against the defendant.

Section 71. Temporary orders concerning education.

(1) Until legal force of the judgment, the judge can issue temporary orders concerning the education of the juvenile. Ordering temporary reformatory education is inadmissible.

(2) If juvenile punishment is expected to be imposed, the judge can order temporary commitment to a suitable correctional home if this is advisable in order to prevent the juvenile from abusing his liberty by committing new criminal acts or to prevent the further endangerment of his development. Concerning such temporary commitment, Sections 114 to 115a, 117 to 118b, 120 125 and 126, Code of Criminal Procedure apply analogously.

Section 72. Pretrial confinement.

(1) Pretrial confinement may be imposed and executed only if the purpose for which it was imposed cannot be attained by a temporary order concerning education or by other measures. Considerations regarding its appropriateness (Section 112, paragraph 1, sentence 2, Code of Criminal Procedure) must make allowance for the extraordinary burdens such an execution places on juveniles. If pretrial confinement is imposed, the arrest warrant must list the reasons why other measures, especially the temporary commitment to a correctional home, are not sufficient, and that pretrial confinement is not appropriate.

(2) As long as the juvenile has not reached the age of 16 years, pretrial confinement due to risk of absconding can only be imposed if he

1. has already evaded the proceedings or tried to abscond, or

2. does not have a domicile or residence in the area in which this law is valid.

(3) The judge who issued the arrest warrant or, in urgent cases, the youth court judge in whose area the pretrial confinement is to be executed, decides with respect to the execution of an arrest warrant and the measures to be taken to avoid its execution

(4) Temporary commitment to a correctional home can be ordered (Section 71, paragraph 2) under the same prerequisites as an arrest warrant can be issued. In this case, the judge can subsequently substitute an arrest warrant for a temporary commitment order if such action proves to be

necessary.

(5) If a juvenile is in pretrial confinement, the proceedings are to be carried out with particular expedition.

(6) For significant reasons, the competent judge can transfer all or some of the judicial decisions concerning pretrial confinement to another youth court judge.

Section 72a.

The assistance to youth courts must be immediately informed of the execution of an arrest warrant; it must be informed as soon as an arrest warrant is issued. The assistance to youth courts is to be informed of a juvenile's temporary arrest if, according to the state or the criminal investigation, the juvenile is expected to be brought before the judge pursuant to Section 128, Code of Criminal Procedure

Section 73. Commitment for observation.

(1) In preparation of an opinion concerning the mental and physical development of the defendant of the judge, after hearing an expert and the defense attorney, can order that the defendant be transferred to suitable institution for the purpose of a criminal-biological examination and observation In the preparatory proceedings, the judge decides who would be competent for the opening of the main proceedings.

(2) Immediate appeal is admissible against the decree. It has a delaying effect.

(3) Custody in the institution must not exceed a period of 6 months.

Section 74. Costs and expenses.

In proceedings against a juvenile, charging the accused on trial with the costs and expenses can be refrained from.

Subchapter VIII. Simplified youth court proceedings.

Section 75. Rescinded.

Section 76. Prerequisites for simplified youth court proceedings.

The district attorney can submit a motion, orally in writing, to the youth court judge that the case be decided in simplified youth court proceedings if it is to be expected that the youth court judge will exclusively issue instructions, order disciplinary guidance, impose means of correction, impose a prohibition to drive or order forfeiture or confiscation. The motion of the district attorney is equivalent to the indictment.

Section 77. Denial of motion.

(1) The youth court judge denies to dispose of the case by simplified

proceedings if the matter is not appropriate for such proceedings, particularly if commitment to a correctional institution or imposition of juvenile punishment is probably or if the obtaining of a considerable evidence is required. The decree can be issued at any time until the announcement of the judgment. It is not contestable.

(2) If the youth court judge denies the decision by simplified proceedings, the district attorney files a bill of indictment.

Section 78. Procedure and decision.

(1) In simplified youth court proceedings, the youth court judge decides by judgment on the basis of a trial. He cannot impose commitment to a correctional home, juvenile punishment or commitment to an institution for curing drug addicts and alcoholics.

(2) The district attorney is not obligated to attend the trial. If he does not attend, his consent concerning discontinuance of the proceedings during the trial or continuing the proceedings in the absence of the accused on trial is not required.

(3) For simplification, expedition and making the proceedings appropriate to juveniles, deviation from the rules of procedure is permissive if the determination of the truth is not impaired. The regulations concerning the presence of the accused on trial (Section 50), the position of the parents/legal guardian and the legal representative (Section 67), and

notification concerning decisions (Section 70) must be observed.

Subchapter IX. Exclusion of provisions of general procedural law.

Section 79. Penal order and expedited proceedings.

(1) No penal order can be issued against a juvenile.

(2) Expedited proceedings provided for in the general procedural law is inadmissible.

Section 80. Private plaint and accessory prosecution.

(1) No private plaint can be filed against a juvenile. A delinquency which pursuant to the general provisions, can be prosecuted upon private plaint, is prosecuted by the district attorney even if this is required only for reasons of education or due to a justified interest of the injured party that does not contravene the correctional purpose.

(2) Counterplaint against a juvenile plaintiff is admissible. However, juvenile punishment must not be imposed.

(3) Accessory persecution is inadmissible.

Section 81. Compensation of the injured party.

The provisions of the Code of Criminal Procedure concerning compensation of the injured party (Sections 403 to 406c, Code of Criminal

Procedure) are not applied in proceedings against a juvenile.

Subpart III. Execution*

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Translator's note: Although Black's Law Dictionary (West Publishing company) defines "execution" as: "Carrying out some act of course of conduct; to carry into effect; the completion, fulfillment, or perfecting of anything, or carrying it into operation and effect, " we decided to use the term "execution" as it best describes the meaning of both "Vollstreckung" and "Vollzug".

*

Chapter I. Execution.

Subchapter I. Structure concerning execution and jurisdiction.

Section 82. Officer in charge of execution.

(1) The youth court judge is the officer in charge of execution. He also performs the responsibilities the Code of Criminal Procedure assigns to the chamber in charge of execution of the sentence.

(2) If disciplinary guidance or reformatory education is ordered, any further jurisdiction is determined by the provisions concerning juvenile welfare.

Section 83. Decision in the proceedings concerning execution.

(1) The decisions of the officer in charge of execution pursuant to Sections 86 to 89 and 92, paragraph 3, as well as pursuant to Sections 462a and 463, Code Criminal Procedure, are decisions by a youth court judge.

(2) Regarding judicial decisions which become necessary for execution contrary to an order given by the officer in charge of execution, the youth chamber is competent in those cases in which

1. the officer in charge of execution or, under his presidency, the juvenile lay assessors court of the first instance has pronounced a sentence,

2. the officer in charge of execution, performing the responsibilities of the chamber in charge of execution of the sentence, would have to decide on his own order.

(3) The decisions pursuant to paragraph 1 and 2 can be contested by immediate appeal unless otherwise provided. Sections 67 to 69 apply analogously.

Section 84. Venue.

(1) The youth court judge is charged with the execution in all cases that he tried himself or where he was the presiding judge of a youth lay assessors court of the first instance.

(2) If, apart from the cases listed in paragraph 1, the decision of

another judge is to be executed, the initiation of the execution is the duty of the youth court judge of the district court who is charged with the education responsibilities

(3) In cases pursuant to the provisions of paragraph 1 and 2 above, the youth court judge effects the execution unless otherwise provided by Section 85

Section 85. Delegation and transfer to execution.

(1) If juvenile detention is to be executed, the youth court judge who has immediate jurisdiction delegates the responsibility to execute the sentence to the judge, who pursuant to the provisions of Section 90, paragraph 2, sentence 2, is competent as officer in charge of confinement.

(2) If juvenile punishment is to be executed, execution of the sentence is, after placement of the convicted person in the juvenile confinement facility, transferred to the youth court judge of the district court in whose area the juvenile confinement facility is located. The state governments are authorized to issue a legal ordinance to transfer the execution to a youth court judge of another district court if this appears more feasible due to reasons of transportation. The state governments can delegate the authorization by legal ordinance to the state agencies responsible for administration of justice.

(3) If a state maintains a juvenile confinement facility within the

territory of another state, the states involved may agree that the youth court judge of a district court in the state which maintains the juvenile confinement facility shall be the competent judge. If such an agreement is made, the execution is transferred to the youth court judge of the district court in whose area the supervising authority responsible for the juvenile confinement facility is located. The government of the state which maintains the juvenile confinement facility is authorized to issue a legal ordinance specifying that a youth court judge from another district court serve as competent judge if this appears more feasible due to reasons of transportation. The state government can delegate the authorization by legal ordinance to the state agency responsible for administration of justice.

(4) Paragraph 2 is to be applied with regard to the execution of a measure of rehabilitation and security according to Section 61 number 1 or 2 of the Penal Code.

(5) For important reasons, the officer in charge of execution can revocably delegate the execution thereof to a youth court judge who normally would not be competent, or is no longer competent.

(6) If the convicted person has attained the age of 24 years, the officer in charge of execution pursuant to paragraphs 2 to 4, can delegate to the law enforcement agencies having competence according to the general regulations, the execution of a juvenile sentence which has been executed according to the regulations for adult sentence execution, or a measure of

rehabilitation and security, if the execution of the sentence or measure will, presumably, continue, and the special basic ideas of the juvenile court law, in view of the personality of the convicted person, are no longer the decisive factors; the delegation is binding Upon delegation, the provisions regarding execution of a sentence delineated in the Code of Criminal Procedure and the Law governing.

Subchapter II. Juvenile detention.

Section 86. Transformation of free time detention.

The officer in charge of execution can transform free time detention to short-term detention, if the prerequisites set forth in Section 16, paragraph 3, occurred subsequently

Section 87. Execution of juvenile detention.

(1) Juvenile detention will not be suspended on probation.

(2) Pertaining to the credit for pretrial confinement to juvenile detention, Section 450, Code of Criminal Procedure, applies analogously

(3) If juvenile detention is partially served, the officer in charge of execution refrains from execution of the remaining sentence if this is advisable for reasons of education He can refrain, entirely from executing juvenile detention if it is to be expected that juvenile detention, besides a

sentence which has been imposed upon the convicted person for any other act or which has to expect for another act, will no longer attain its educational purpose. Before the decision, the officer in charge of execution consults, if possible, with the judge who tried the case and with the district attorney.

(4) Execution of juvenile detention is inadmissible if 1 year has elapsed since its legal force

Subchapter III. Juvenile punishment.

Section 88. Suspension of the remaining juvenile punishment for a definite period.

(1) The officer in charge of execution can suspend execution of the remaining juvenile punishment on probation for a definite period if the convicted person has served part of the sentence and if it can be justified to test that he will lead a righteous, law-abiding life without execution of juvenile punishment.

(2) Before completion of 6 months of juvenile punishment for a definite period, suspension on probation of the execution of the remaining portion may be ordered only for especially important reasons. If juvenile punishment of more than 1 year has been imposed, it is admissible only if the convicted person has served at least one-third of the sentence.

(3) In cases involving paragraphs 1 and 2, the officer in charge of execution shall make his decision early enough to ensure that the necessary measures to prepare the convicted person of his life after his release can be implemented. He can revoke his decision until the release of the convicted person if, due to recently occurred or newly discovered facts, it can no longer be justified to test that the convicted person will lead a righteous, law-abiding life without execution of juvenile punishment.

(4) The officer in charge of execution decides after hearing the district attorney and the officer in charge of confinement. The convicted person must be given the opportunity to render oral statements.

(5) The officer in charge of execution can establish time limits of not more than 6 months before the expiration of which a motion of the convicted person to suspend the remaining sentence on probation is inadmissible.

(6) If the officer in charge of execution orders suspension of the execution of the remaining juvenile punishment, Sections 22, paragraph 1 and paragraph 2, sentences 1 and 2, as well as Sections 23 through 26a apply analogously. The officer in charge of execution succeeds to the position of the judge who tried the case. Sections 58, 59, paragraphs 2 to 4, and Sections 60 are to be applied accordingly to the proceedings and the Contestation of decisions. The appeal of the district attorney's office against the decisions ordering suspension of the execution of the remaining

juvenile punishment suspends the effect of the decisions.

Section 89. Suspension of the remaining juvenile punishment for an indefinite period.

(1) If the convicted person sentenced to serve juvenile punishment for an indefinite period has served the minimum of his sentence and if it can be justified to test that he will lead a righteous, law-abiding life without execution of juvenile punishment, the officer in charge of execution transforms the juvenile punishment imposed for an indefinite period to juvenile punishment for a definite period and suspends the remaining sentence on probation.

(2) The transformation is effected in a manner that, in case of revocation of the suspension of the sentence, a remaining sentence of at least 3 months and of not more than 1 year is to be executed. The remaining sentence cannot, together with the portion of the sentence served, exceeded the maximum term of juvenile punishment for an indefinite period.

(3) Section 88, paragraphs 3 to 5, applies analogously.

(4) If it is required for special reasons, the officer in charge of execution can also order the final release by transformation of the juvenile punishment for an indefinite period to one for a definite period, so that the sentence has been served at the time of the release.

Section 89a.

(1) If the convicted person sentenced to juvenile punishment is also sentenced to imprisonment, the juvenile punishment is usually executed first. The officer in charge of execution interrupts the execution of the juvenile punishment if half, but no less than 6 months, of the juvenile punishment has been served. He can interrupt the execution at an earlier time if suspension of the remaining juvenile's punishment is to be considered. A remainder of a sentence which is being served due to revocation of its suspension, can be interrupted if half, but no less than 6 months, of the remaining sentence has been served, and a suspension is to be considered again. Section 454b, paragraph 3, Code of Criminal Procedure, is to be applied

(2) If a convicted person sentenced to imprisonment for life is also sentenced to juvenile punishment, only the life imprisonment sentence is executed if the latest conviction concerns a criminal act which the convicted person committed before the earlier conviction; the judgment in those proceedings in which the underlying factual findings could be examined for the last time is valid for sentencing. If the court suspends execution of the remaining life imprisonment on probation, the court declares that execution of the juvenile punishment has been completed.

(3) In cases involving paragraph 1, Section 85, paragraph 6 applies,

provided that the officer in charge of execution can delegate execution of the juvenile punishment when the convicted person reaches the age of 21 years.

Chapter II. Execution.

Section 90. Juvenile detention.

(1) The execution of juvenile detention shall stir the juvenile's sense of honor and impressively convince him that he has to answer for the wrong he committed.

(2) Juvenile detention will be executed in juvenile detention facilities or in free time detention facilities of the state judicial administrative agency. The officer in charge of confinement is the youth court judge at the location of execution. If inmates of public welfare homes are involved, the officer in charge of execution, in concert with the agency concerned with reformatory education, can have juvenile detention executed in a correctional institution.

Section 91. Meaning and effect of the execution of juvenile punishment.

(1) By the execution of juvenile punishment, the convicted person shall be educated to lead a righteous, responsibility-minded life in the future.

(2) Discipline, work, education, physical training and useful occupation

during his free time are the basis for this education. The vocational capacities of the convicted person are to be furthered. Workshops are to be established for instruction purposes. Pastoral care will be ensured.

(3) In order to attain the desired education goal, execution can be handled less strictly and, in suitable cases, as informally as possible.

(4) The civil servants must be qualified and trained regarding the educational responsibility of execution.

Section 92. Juvenile confinement facilities.

(1) Juvenile punishment will be executed in juvenile confinement facilities

(2) Concerning a convicted person who has completed the 18th year of age and who is not suited for the execution of juvenile punishment, punishment needs not necessarily be executed in a juvenile confinement facility will be executed pursuant to the provisions concerning the execution of a sentence for adults. If the convicted person has completed the 24th year of age, juvenile punishment shall be executed pursuant to the provisions concerning the execution of a sentence for adults.

(3) Concerning the exception from execution of juvenile punishment, the officer in charge of execution shall take a decision.

Section 93. Pretrial confinement.

(1) Concerning juveniles, pretrial confinement will be, if possible, executed in a special facility or at least in a separate section of the regular confinement facility or, if imprisonment is not to be expected, in a juvenile confinement facility.

(2) The execution of pretrial confinement shall be administered to have a correctional effect.

(3) The officer assisting the youth court and, if the defendant is under the supervision and guidance of a probation officer or if an educational counsel has been assigned to exercise disciplinary guidance, the education counsel and the officer exercising disciplinary guidance are authorized to contact the defendant to the same extent as a defense attorney.

Section 93a. Commitment to an institution for curing drug addicts and alcoholics.

(1) The disciplinary action pursuant to Section 61, number 2, Criminal Code, will be executed at an institution which has at its disposal the special therapeutic means and social aids required for the treatment of addicted juveniles.

(2) In order to attain the intended goal of the treatment, the execution can be handled less strictly and as informally as possible.

Subpart IV. Deletion of the blemish due to conviction.

Section 94 to 96. Rescinded.

Section 97. Deletion of the blemish due to conviction by decision of the judge.

(1) If the youth court judge has come to the conviction that a juvenile who has been sentence to juvenile punishment, has proved by acceptable conduct that he is a righteous person, he declares deleted, by reason of office or on motion of the convicted person, of the parents/legal guardian or of the legal representative, the entry in the penal register concerning the blemish due to conviction This can also be effected on motion of the district attorney or, if the convicted person is still under age at the time of the motion, or motion of the representative of assistance to youth courts.

(2) The order can only be issued 2 years after completion r remission of the sentence unless the convicted person has shown himself exceptionally worthy of the deletion of the blemish due to the conviction from the penal register. The order is inadmissible during the execution or during a period of probation.

Section 98. Procedure.

(1) Competent is the youth court judge of the district court who, in his function as the judge of the guardianship court, is responsible for the

judicial duties of education of the convicted person. If the convicted person is of age, the youth court judge in whose are the convicted person. If the convicted person is of age, the youth court judge in whose area the convicted person resides has jurisdiction.

(2) The youth court judge commissions preferably the agency which has taken care of the convicted person after completion of the sentence with investigation concerning the conduct of the convicted person and his probation. He can carry out investigations on his own. He hears the convicted person and, if the individual is under age, the parents/legal guardian and the legal representative as well as the school or the competent administrative agency

(3) After completion of the inquiries, the district attorney is to be heard

Section 99. Decision.

(1) The youth court judge decides by decree.

(2) If he feels that the prerequisites are such that deletion of the blemish due to conviction is not yet advisable, he can defer the decision for not more than 2 years.

(3) Immediate appeal is admissible against the decree.

Section 100. Deletion of the blemish due to conviction after remission of a sentence or a remaining sentence.

If the sentence or a remaining sentence in case of a conviction to juvenile punishment for not more than 2 years is remitted after suspension on probation, the judge also declares the blemish due to conviction.

Section 101. Revocation.

If the convicted person whose blemish due to conviction was declared deleted is again convicted of a felony or of an intentionally committed misdemeanor which again results in imprisonment before deletion of the entry from the register, the judge, in the judgment or subsequently by decree, revokes the deletion of the blemish due to conviction. In special cases, he can refrain from the revocation.

Subpart V. Juveniles before courts having jurisdiction over general criminal cases.

Section 102. Jurisdiction.

The jurisdiction of the Federal Supreme Court and the superior state court are not affected by the provisions of this law. In criminal cases in first instance for which the superior state court is competent (Section 120,

paragraphs 1 and 2, Law governing the Structure of the Judiciary), the Federal Supreme court also rules on appeals against decisions of these superior state courts by which suspension of juvenile punishment on probation is ordered or rejected (Section 59, paragraph 1).

Section 103. Joinder of several criminal cases.

(1) Pursuant to the provisions of the general rules of procedure, criminal cases against juveniles and adults can be combined if it is required for the purpose of searching for the truth or for other important reasons.

(2) The youth court has jurisdiction This does not apply if the criminal case against adults, pursuant to the general provisions including the regulation of Section 74e, Law governing the Structure of the Judiciary, is within the competence of the penal chamber concerned with criminal acts against the economy or of the penal chamber pursuant to Section 74a, Law governing the Structure of the Judiciary; in such case, these penal chambers have also jurisdiction over the criminal case against the juvenile. Regarding review of jurisdiction of the penal chamber concerned with criminal acts against the economy and the penal chamber division pursuant to Section 74a, Law governing the Structure of the Judiciary, Sections 6a, 225a, paragraph 4, Section 270, paragraph 1, sentence 2, Code of Criminal Procedure, apply accordingly in the case of sentence 2. Section 209a, Code of Criminal Procedure, is to be applied with the condition that these

penal chambers, also in relation to the youth chamber, are equal to a court of higher instance.

(3) If the judge decides that the combined cases be separated, the matter is immediately transferred to the judge who would have exercised jurisdiction if the cases had not been combined.

Section 104. Proceedings against juveniles.

(1) In proceedings against juveniles before courts exercising general criminal jurisdiction, the provisions of this law apply concerning

1. delinquencies committed by juveniles and the consequences thereof (Sections 3 to 32),

2. consultation and legal position of the assistance to youth courts (Sections 38, 50, paragraph 3),

3. scope of investigations in the preliminary proceedings (Section 43),

4. refraining from prosecution and the discontinuance of proceedings by the judge (Sections 45, 47),

5. pretrial confinement (Section 52, 52a, 72),

6 reasons for judgment (Section 54),

7. proceedings of means of redress (Sections 55, 56),

8. procedure concerning suspension of juvenile punishment on probation and imposition of juvenile punishment (Sections 57 to 64),

9. participation and legal position of the parents/legal guardian and the legal representative (Sections 67, 50, paragraph 2),

10. mandatory defense (Section 68),

11. notifications (Sections 70),

12. commitment for observation (Section 73),

13. costs and expenses (Section 74), and

14. exclusion of provisions in the general procedural law (Sections 79 to 81)

(2) The application of additional procedural provisions set forth in this law is in the discretion of the judge.

(3) If required for reasons of national security, the judge can order that consultation of the assistance to youth courts and participation of the parents/legal guardian and the legal representative be omitted

(4) If the judge deems corrective disciplinary actions necessary, he leaves the choice and the order for the execution thereof to the judge of the guardianship court. Section 53, sentence 2, applies accordingly.

(5) Decisions becoming necessary upon suspension of juvenile punishment on probation are to be delegated to the youth court judge in whose area the juvenile resides. The same applies to decisions after suspension of imposition of juvenile punishment, with the exception of decisions concerning the assessment of the sentence and extinction of the general verdict (Section 30).

Part III. Adolescents.

Chapter I. Application of substantive criminal law.

Section 105. Application of youth criminal law to adolescents.

(1) If an adolescent commits a delinquency that is subject to punishment pursuant to the general provisions, the judge applies the provisions of Section 4 to 8, 9, number 1, Section 10, 11 and 13 to 32, which apply to a juvenile, accordingly if

1. the overall evaluation of the perpetrator's personality, taking into consideration his environment, reveals that he was equal to a juvenile regarding moral and mental development at the time of the act or

2. the nature, the circumstances or the motives of the act indicate that it was a juvenile delinquency

(2) Section 31, paragraph 2, sentence 1, paragraph 3, is also to be applied if the adolescent has already been sentenced for part of the criminal acts by final judgment pursuant to general criminal law.

(3) The maximum term of juvenile punishment for adolescents is 10 years

Section 106. Mitigating punishment under general criminal law for adolescents.

(1) If general criminal law is to be applied for the criminal act committed by an adolescent, the judge can impose imprisonment from 10 to 15 years instead of imprisonment for life.

(2) The judge cannot order preventative detention. He can order that the loss of capacity to hold public office and to acquire rights resulting from public elections (Section 45, paragraph 1, Criminal Code) does not occur.

Chapter II. Structure of the judiciary and procedure.

Section 107. Structure of the judiciary.

Of the provisions concerning the structure of the youth court, Sections 33, 34, paragraph 1, and Sections 35 to 38 apply to adolescents accordingly.

Section 108. Jurisdiction.

(1) The provisions concerning jurisdiction of youth courts (Section 39 to 42 apply also to delinquencies committed by adolescents.

(2) The youth court judge has also jurisdiction over delinquencies committed by adolescents if application of general criminal law is to be expected and if, pursuant to Section 25, Law governing the Structure of

the Judiciary, the judge would have to decide.

(3) The youth lay assessors court cannot impose imprisonment exceeding 3 years for a delinquency committed by an adolescent. If a longer term of imprisonment is to be expected, the youth chamber has jurisdiction

Section 109. Procedure.

(1) Of the provisions concerning youth criminal proceedings (Section 43 to 81), Sections 43, 47a, 50, paragraphs 3 and 4, Section 68 numbers 1, 3, and Section 73 are to be applied accordingly to proceedings against an adolescent. The assistance to youth courts and, in appropriate cases also the school, will be informed of the initiation and outcome of the proceedings. They inform the district attorney when it becomes known to them that other criminal proceedings are pending against the defendant. The public can be excluded if this is advisable in the interest of the adolescent.

(2) If the judge applies youth criminal law (Section 105) Sections 45, 47, paragraph 1, sentence 1, numbers 1, 2, and 3, paragraphs 2, 3, Sections 52, 52a, 54, paragraph 1, Sections 55 to 66, 74, 79, paragraph 1, and Section 81 also apply accordingly. Section 66 is also to be applied if unitary assessment of measures or juvenile punishment pursuant to Section 105, paragraph 2, is omitted. Section 55, paragraphs 1 and 2 is not to be

applied when the order was issued according to the summary proceedings of the general procedural law.

(3) Section 407, paragraph 2, sentence 2 of the Code of Criminal Procedure cannot be applied to proceedings against an adolescent.

Chapter III. Execution* and deletion of the blemish due to conviction.

Section 110. Execution.*

(1) Section 82, paragraph 1, Sections 83 to 93a of the provisions concerning execution in cases involving juveniles apply to adolescents accordingly, if the judge applies youth criminal law (Section 105) and has imposed admissible measures or juvenile punishment as provided by this law.

(2) As long as the adolescent has not completed his 21st year of age, Section 93 is to be applied accordingly.

*

Translator's note: Although Black's Law Dictionary (West Publishing Company) defines "execution" as: "Carrying out some act of course of conduct; to carry into effect; the completion, fulfillment, or perfecting of anything, or carrying it into operation and effect," we decided to use the term "execution" as it best describes the meaning of both "Vollstreckkung"

and Vollzug"

*

Section 111. Deletion of the blemish due to conviction.

The provisions concerning the deletion of the blemish due to conviction (Sections 97 to 101) apply to adolescents insofar as the judge has imposed juvenile punishment.

Chapter IV. Adolescents before courts having jurisdiction over general criminal cases.

Section 112. Corresponding application.

Sections 102, 103, 104, paragraphs 1 to 3 and 5, apply to the proceedings against adolescents accordingly. The provisions of Section 104, paragraph 1, are to be applied only insofar as they are not excluded by the law applicable to adolescents. If the judge considers the issue of instructions to be necessary, he leaves the selection and ordering to the youth court judge in whose area the adolescent resides.

Part IV. Special provisions for soldiers of the Federal Armed Forces.

Section 112a. Application of juvenile criminal law.

For the duration of the military obligation of a juvenile or an adolescent,

the youth criminal law (Sections 3 to 32, 105) applies with the following exceptions:

1. Disciplinary guidance and reformatory education cannot be ordered.

2. If the moral and mental development of an adolescent or of a juvenile is of such nature that special guidance is required, the judge can order corrective disciplinary actions consisting of corrective guidance by the superior having disciplinary power over the individual.

3. In issuing instructions and imposing conditions, the judge shall consider the particularities of the military service. He shall adjust the instructions and conditions previously imposed to these particularities.

4. A soldier can be appointed honorary probation officer. He is not subject to the instructions issued by the judge (Section 25, sentence 2) in the performance of his responsibilities.

5. Matter which fall within the scope of the military superiors of the juveniles of the juvenile or adolescent are excluded from the supervision of the probation officer who is not a soldier. Measures of the superior having disciplinary power have priority.

Section 112b. Corrective guidance by the superior having disciplinary power.

(1) If the judge has ordered corrective guidance (Section 112a, number

2), the superior having disciplinary power ensures that the juvenile or the adolescent is supervised and guided also during off-duty hours.

(2) For this purpose, obligations and restrictions involving duty hours, free time, leave or pay are imposed upon the juvenile or the adolescent. Details will be regulated by legal ordinance (Section 115, paragraph 3).

(3) Corrective guidance is exercised until its purposed is attained. However, it ends at the latest after 1 year, or when the soldier reaches the age of 22, or upon his discharge from military service.

(4) Corrective guidance can also be ordered besides juvenile punishment.

Section 112c. Execution.

(1) The officer in charge of execution declares the corrective disciplinary action pursuant to Section 112a, number 2, completed as soon as its purpose is attained.

(2) The officer in charge of execution refrains from ordering execution of juvenile detention imposed upon soldiers on the Federal Armed Forces for an act committed before commencement of the military obligation, if the particularities of the military service require this and cannot be met by postponement of the execution

(3) The decisions of the officer in charge of execution pursuant to paragraphs 1 and 2 are equal to decisions by a youth court judge within the

meaning of Section 83.

Section 112d. Consultation with the superior having disciplinary power.

Before issuing instructions to or imposing conditions on a soldier of the Federal Armed Forces or ordering corrective disciplinary action pursuant to Section 112a, number 2, or declaring them completed or refraining from execution of juvenile detention pursuant to Section 112c, paragraph 2, or appointing a soldier as probation officer, the judge or the officer in charge of execution shall hear the immediate superior having disciplinary power over the juvenile or the adolescent regarding these matters.

Section 112e. Proceedings before courts having jurisdiction over general criminal cases.

In proceedings against juveniles or adolescents before courts having general criminal jurisdiction (Section 104), Sections 112a, 112b and 112d are to be applied.

Part V. Concluding and transitional provisions.

Section 113. Probation officer.

At least one full time probation officer is to be appointed in the area of each youth court judge The appointment can be extended to several area

or can be waived entirely if, due to infrequency of criminal cases, disproportionately high costs would be incurred. Details concerning the activity of the probation officer are regulated by state law.

Section 114. Execution of imprisonment in the juvenile confinement facility.

In the juvenile confinement facility, imprisonment imposed pursuant to general criminal law may also be executed concerning convicted persons who have not yet completed their 24th year of age and who are qualified for execution of juvenile punishment.

Section 115. Legal provisions issued by the Federal Government concerning execution.

(1) The Federal Government is authorized to issue, by legal ordinance, with the approval of the Federal Council, regulations regarding the execution of the juvenile punishment, juvenile detention and pretrial confinement, concerning accommodations, treatment, way of life, disciplinary, moral and pastoral guidance, work, instruction, hygiene and physical training, free time, communication with the outside, the order and security of the confinement facility and punishment of violations thereof, commitment to and release from such facilities, as well as cooperation with the governmental agencies and agencies concerned with the guidance and

welfare of juveniles.

(2) For the purpose of punishing violations of order or security of the confinement facility, the legal ordinances or the Federal Government may only provide for punishment affecting the prisoner's life within the facility which the officer in charge of confinement or during pretrial confinement of the judge, imposes The severest types of such punishment include restriction of communication with the outside world to emergency cases for a period up to 3 months and detention for up to 2 weeks. More lenient punishment is admissible. Detention in a dark cell is prohibited.

(3) The Federal Government is authorized to issue, by legal ordinance, with the approval of the Federal Council, regulations in implementation of Section 112, paragraph 2, as to type, scope and duration of the obligations and restrictions imposed upon the juvenile or the adolescent regarding his service, his free time, his leave and pay, or that can be imposed upon him by the next superior having disciplinary power.

Section 116. Scope of applicability as to time.

(1) The law will also be applied to delinquencies that have been committed before its entry into force. For these delinquencies, the minimum term of juvenile punishment is 3 months.

(2) Juvenile punishment cannot be imposed upon an adolescent if the criminal act was committed before entry into force of this law and if,

pursuant to general criminal law, imposition of imprisonment for less than 3 months would have been expected.

(3) Rescinded.

Section 117. Structure of the judiciary.

(1) The election of lay assessors of the youth court pursuant to Section 35 takes place for the first time within 6 months after entry into force of this law, later simultaneously with the election of the lay assessors for the lay assessors courts and the penal chambers.

(2) At locations where no juvenile welfare committee yet exists, a suggestion list pursuant to Section 35, paragraph 3, will be prepared by the juvenile office.

Section 118. Rescinded.

Section 119. Imprisonment.

Juvenile punishment involving confinement imposed upon a juvenile before the entry into force of this law is considered equal to juvenile punishment under this law.

Section 120. References.

References to provisions of the Youth Court Law of the Reich, dated 6

November 1943 (Reich Law Gazette I, page 637) are considered as references to the provisions of this law which substitute them.

Section 121.

If a state maintains a juvenile confinement facility within the territory of another state (Section 85, paragraph 3), the youth court judge of the district court in whose area the supervising authority responsible for the juvenile confinement facility is located is competent for the execution of a juvenile sentence during the period effective December 1, 1990, until September 4, 1991*

Section 122. Rescinded.

Section 123. Special regulations for Berlin.

Part IV (Sections 112a to 112e) and Section 115, paragraph 3, are not to be applied in Berlin. Part V (concluding and transitional provisions) is to be applied in Berlin.

Section 124. Berlin clause. Rescinded.

Section 125. Entry into force.

This law enters into force on 1 October 1953.

Appendix D

Interviewees

Focused Interviews: France

Agnes Boissinot
Magistrate
Office of Judicial Affairs and Legislation
Department of Youth Judicial Protection
Paris, France
Interviewed September 14, 1998

Andre Velu
Director
Department of Youth Judicial Protection
Lyon, France
Interviewed May 28, 1998

Mr. Picot
Lawyer
Lyon, France
Interviewed: May 29,1998

Mariel Pertegas
Former Youth Counselor in Residential Treatment Program
Student
University of Lyon
Lyon, France
Interviewed: May 28,1998

Daniel Ryan
American seeking dual citizenship in France
American University in Paris
Paris, France
Interviewed September 15, 1998

Laurence Droz-Vincent
French citizen/student
University of Lyon
Lyon, France
Interviewed: May 29,1998

Focused Interviews: Germany

Dr. Peter
Secretary to the Governor
State Ministry of Baden-Wuerttemberg
Stuttgart, Germany
Interviewed: May 20, 1998

Dr. Goetz
Ministry of Justice
Speaker for Youth Welfare, Youth Court Law, Victim-Offender Mediation
Stuttgart, Germany
District attorney
Interviewed May 20,1998

Judge Eckert
Presiding Judge of the Regional Superior Court
Youth Criminal Division
Stuttgart, Germany
Interviewed May 19, 1998

Mr. Ehrhardt
District attorney
Youth Criminal Law
Stuttgart, Germany
Interviewed May 22, 1998

Ms. Haas
Youth Court Advocate/Social Worker
Department of Social Services
Stuttgart, Germany
Interviewed May 19,1998

Personal Communication:

Dr. Hrbek
Professor/Director
Institute of Political Science
University of Tuebingen
Tuebingen, Germany

Dr. Kerner
Institute of Criminology
University of Tuebingen
Tuebingen, Germany

Dr. Weitekamp
Institute of Criminology
University of Tuebingen
Tuebingen, Germany

Michaela Strick
Master's-level State Certified Translator
Student
University of Stuttgart
Stuttgart, Germany

Appendix E

Questionnaire on Policy

Introduction:

I am a doctoral student at Virginia Commonwealth University in Richmond, Virginia, studying Public Policy and Administration. I have completed my course work and comprehensive examinations. Currently, I am in the process of writing my doctoral dissertation. My dissertation is entitled, "The Determinants of Juvenile Justice Policy in France and Germany". I am interested in interviewing people who are knowledgable about their juvenile justice system, and can explain to me the causes or factors that influenced the development of their current juvenile justice policy. By juvenile justice policy, I am specifically referring to the following policies:

The Ordinance of February 2, 1945 (France). Refers to penal code, and law of July 22, 1912 and August 5, 1850.

Juvenile Court Law of 1923 (Germany). Refers to Commoner code of 1915.

Interview Guide

1. What issues and/or trends are currently making an impact on the field of juvenile justice?

2 What do you believe are the factors that influenced the development of juvenile justice policy in France/Germany? In other words, what caused the national policy to be written the way that it is?

3. My understanding is that the juvenile justice policy has been amended several times throughout its history.

   a Why was the policy amended?

   b. What factors led to the policy being changed?

   c. Were there specific historical events that took place prior to, or around, the time of the amendment?

   d. What was the significance of these amendments?

4. How does the policy propose to address the problem of juvenile delinquency?

5. Are the objectives of the policy clearly defined within the policy?

6. If you were to view policy objectives on a continuum ranging from, for example, punitive measures on one end of the spectrum and preventative measures on the other, how would you evaluate the current state of policy development?

   a. Has this changed over the years? How?

7. Is the policy written with the expectation of affecting a change in behavior?
   (IF NO, skip to question #8, if YES, continue with question # 7a).

a. How does the policy accomplish this?

8. How would you describe the long and short-term goals of the policy?

9. Do you think that the policy is fair? What does the term "fair" mean to you?

10. Is the policy effective? How is it effective?

11. Who does the policy hold responsible for it's interpretation?

12. What cultural values, assumptions about delinquency and youth (such as those that say young people have been committing more serious crimes in recent years) or beliefs, are embodied in the policy?

13. Does the policy reflect the values of the policy makers, the public, society or some combination of these?

14. Do you believe that the values that have influenced the development of juvenile justice policy have changed over time? How so?

15. Have there been any recent structural changes in the juvenile justice system?

16. Have there been any new funding practices affecting the juvenile justice system?

17. Have the European Union mandates had any impact on juvenile justice policy?
(If NO, skip to question #18, if YES, continue with question #17a)

a. In what way have the European Union mandates had an impact on juvenile justice policy?

18 Would you be willing to be interviewed again at a later date either in person or by way of a mailed questionnaire?

a. Are there other people that you could suggest within the juvenile justice or political system that might be willing to be interviewed on this topic?

Questionnaire (in French)

1. Quels problèmes ou tendances influencent les législations en matière de délinquence juvénile?

2. Quels sont les facteurs qui influencent le développement de la législation sur la jeunesse dans la France ?

En d´autres termes, quelles sont les raisons qui motivent cette politique?

3. J´ai cru comprendre que cette législation sur les jeunes a été récemment amendée le 19 décembre 1997.

a. Pourquoi cette loi a-t-elle été amendée?

b. Quels sont les facteurs qui ont motivé cet amendement?

c. Est ce que des évènements historiques spécifiques ont eu une influence avant cet amendement?

d. Quelles en ont été les répercussions?

4. Que propose cette politique pour résoudre le problème de la criminalité juvénile?

5. Cette politique présente elle ses buts d´une manière implicite ou explicite?

6. Comment jugeriez-vous l´état actuel du développement des législations et des règlementations, si, par exemple, l´impact de celles-ci se trouve perpétuellement entre prévention d´un côté et punition de l´autre ?

7. Est ce que les législations et les règlementations sont rédigées avec l´intention de créer un changement dans les comportements?

   a. Qu´est ce que la législation propose pour accomplir ce changement?

8. Comment décririez-vous les buts à court terme et à long terme de ces législations et règlementations?

9. Pensez-vous que ces législations et règlementations soient justes?

   a. Que veux dire pour vous le terme juste?

10. Ces législations et règlementations sont-elles efficaces? Jusqu´à quel point sont-elles efficaces?

11. Qui est responsable de l´interprétation de la loi?

12. Quelles valeurs culturelles, idéologiques, et hypothèses sur le crime et la jeunesse sont contenues dans les législations et règlementations? (Par exemple l´hypothèse disant que les jeunes commettent plus de crimes graves qu´auparavant).

13. Les législations et règlementations sont-elles le reflet des valeurs des hommes politiques, de l´opinion publique ou un mélange de tous ceci en même temps?

14. Croyez-vous que les valeurs qui ont influencé le développement de la législation sur les jeunes ont changé avec les temps?

a. Si oui, de quelle manière?

15. Est ce que des changements récents ont eu lieu dans la structure administrative de la justice juvénile?

16. Y-a-t-il eu de nouveaux modes de financement qui auraient pu influencer le système de la justice juvénile?

17. Les mandats de l´Union Européenne ont-ils eu quelques influences que ce soit sur cette législations concernant les jeunes?

a. Si oui, de quelle manière ces mandats ont-ils eu un impact sur cette législation?

18. Seriez-vous d'accord pour un autre entretien ou pour répondre à un questionnaire envoyé par la poste?

a. Connaissez-vous d'autres gens, dans ce domaine ou dans le système politique qui accepterait un entretien?

Questionnaire (in German)

1.Welcher Sachverhalt oder Trend hat gegenwärtig einen Einfluß auf den Bereich der Jugendgesetzgebung?

2. Was glauben Sie, sind die Faktoren, welche die Entwicklung der Jugendgesetzgebungs -Politik in Baden Würtemberg beeinflussen? Mit anderen Worten: Was sind die Gründe dafür, daß die Gesetze und Bestimmungen so geschrieben wurden, wie sie sind?

3.Mein Verständnis ist, daß das Jugendgerichtsgesetz letztmalig am 28. Oktober 1994 verändert wurde.

3a. Warum wurden die Gesetze geändert?

3b. Welche Faktoren führten dazu, daß die Gesetze geändert wurde?

3c. Fanden während oder vor der Zeit der Gesetzveränderung spezifische historische Ereignisse statt?

3d. Was war das Wichtigste dieser Gesetzesänderung?

4. Was schlägt die Politik vor, die Problem der Jugendkriminalität zu anzufassen?

5. Werden die Ziele der Politik eindeutig innerhalb der Gesetze und Bestimmungen definiert ?

6. Wie würden Sie den aktuellen Stand der Entwicklung der Gesetze und Bestimmungen beurteilen, wenn Sie zum Beispiel die Wirkung der Gesetze und Bestimmungen auf einem Kontinuum zwischen strafende Maßnahmen an dem einen Ende des Spektrums und vorbeugende Maßnahmen an dem anderen betrachten würden?

7. Sind die Gesetze und Bestimmungen mit der Erwartung einer Änderung des Verhaltens geschrieben worden?

7a. In diesem Fall: Durch was kann dies in den Gesetze und Bestimmungen erreicht werden?

8. Wie würden Sie die langfristigen und kurzfristigen Ziele der Gesetze und Bestimmungen beschreiben?

9. Denken Sie, daß die Gesetze und Bestimmungen gerecht (fair) sind? Was bedeutet der Begriff "gerecht" für Sie?

10. Sind die Gesetze und Bestimmungen wirksam? Wie können Sie erkennen, daß sie wirksam sind?

11. Wer ist für die Auslegung der Gesetze verantwortlich?

12. Welche kulturellen Werte, Glaubenseinstellungen und Annahmen über Kriminalität und Jugend - wie zum Beispiel jene Annahme, die sagt, daß junge Leute zunehmend ernste Verbrechen erst in lezten Jahren begangen haben - werden in den Gesetze und Bestimmungen verkörpert?

13. Spiegeln die Gesetze und Bestimmungen die Werte der Politiker, der Öffentlichkeit, der Gesellschaft oder einer Kombination von diesen wieder.

14. Glauben Sie, daß die Werte, die die Entwicklung der Jugendgesetz - politik beeinflußt haben, sich über die Zeit verändert haben?

14b. Wenn ja, ich welcher Art und Weise?

15. Hat es in jüngster Zeit irgendwelche strukturellen Veränderungen im Jugendgesetz - System gegeben?

16. Hat es irgendwelche neuen Finanzierungsmethoden gegeben, die das Jugendgesetz - System beeinflussen?

17. Haben Mandate der Europäischen Union (EU) einen Einfluß auf die Jugendgesetz – Politik gehabt?

17a. Für diese Fall In welcher Art und Weise haben Mandate der Europäischen Union (EU) eine Wirkung auf die Jugendgesetz – Politik gehabt?

18. Würden Sie Ihre Zustimmung zu einem späteren persönlichen Interview oder zur Beantwortung eines übersendeten Fragebogen geben?

18a. Können Sie andere Personen aus dem Bereich der Jugendgesetzgebung oder eines entsprechenden politischen Bereiches vorschlagen, die bereit wären, zu diesem Thema interviewt zu werden Note:

There are three versions of the questionnaire: English, French, and German. Each translation has been done with attention to linguistic equivalence, rather than literal translation. Explanations of the particular conceptual/linguistic distinctions identified in translating the questionnaire are addressed in the text.

Appendix F

Questionnaire for Journalists

1. How would you define the "task" of the journalist?

2. In general, in France/Germany, what are the major causes of policy change?

3. What are the role and/or influence of news media on policy makers, politicians and policies?

4. Do you think of the press in France/Germany, as being an important influence on policy making in general, on criminal justice policies specifically?

5. What is the priority press in France and Germany give to juvenile justice issues in relation to other (domestic) issues?

6. To what extent do you believe news media influences public opinion?

7 To what extent does news media act as a link between citizens and legislators?

8. Do you believe that legislators equate the views of the press with public opinion?

9. To what extent does media coverage resemble social reality?

10. Do you feel that your role as a journalist weighs more on disseminating information, interpreting that information, or both?

11. How politicized do you feel the press is in your country?

12. Is the press in your country directed towards the average citizen or the elite?

13. How much is your reporting determined by the interests of your audience?

14. To what extent are your decisions about how to cover the news influenced by external sources (revenue, social institutions, target audiences, government, competition)?

15. How freely do you express an opinion on an issue? Are news and opinion separate?

16. What do you understand to be the function of the media?

17. To what extent does the media set the political agenda?

18. On what types of stories do you focus most of your attention?

19. Are there particular adjectives that you would use to describe the press in France/Germany?

20 How do you "best" cover an issue/event?

21. Do juvenile crime/delinquents receive regular or sporatic news coverage? Is there a distinction made between juvenile and adult offenders when reporting on news stories/crime statistics?

Appendix G

List of Newspaper Articles

French articles

Le Progress May 4- June 4, 1970

"The second hold-up in Anse was the work of five 'beginners' equally armed"
- Le Progress, May 9, 1970, p.7

"Four young Lyonnais, none of which were more than 18, have committed since February in the region, 31 hold–ups which yielded less than 20,000 francs"
- Le Progress, May 7, 1970, p.6

Le Figaro: May 4 – June 4, 1970

"50,000 francs or I will kidnap your daughter" was written to a Lorientais pharmacist by an adolescent of fourteen"
- Le Figaro, May 8, 1970, p.12

"Fourteen youths saw two ... apprehended in the Paris Region"
- Le Figaro, May 14, 1970, p.2

"The government bill on parental authority was adopted with some modifications"
- Le Figaro, May 14, 1970, p.8

"Three students were arrested in Paris; they threw a projectile to blow up a building on Lecourbe Street"
- Le Figaro, May 14, 1970, p.15

"Occupation of the Central administration on Assas Street"
- Le Figaro, May 16-17, 1970, p 7

"Parental authority will definitely be voted in by the Palais-Bourbon"
- Le Figaro, May 21, 1970, p 7

"Guarantee of individual freedom – The vote on a government bill has taken place late in the night; minors under sixteen can not be subjected to preventive detention"
- Le Figaro, May 29, 1970, p.6

Le Monde, May 4 – June 4, 1970

"Young people try to set on fire (la recette) of the perception of the XV arrondissement"
- Le Monde, May 7, 1970, p.32

"Four militants of the extreme left are condemned to the punishment of prison"
- Le Monde, May 7, 1970, p.32

"Two young people are arrested after an attack on the Fachon grocery"
- Le Monde, May 10-11, 1970, p.12

"Two students are released"
- le Monde, May 10-11, 1970, p.12

"Two young girls are condemned to the punishment of prison"
- Le Monde, May 12, 1970, p. 28

"The law on parental authority: six women's organizations write to the president of the Senate"
- Le Monde, May 14, 1970, p. 13

"The Senate returns/pronounces less "abrupt" the government bill of law on parental authority"
- Le Monde, May 15, 1970, p. 6

"Carriers of an explosive device: two young people are arrested and deferred to the public prosecutor's office, an accomplice was also apprehended"
- Le Monde, May 15, 1970, p 9

"Indicted for possessing explosives, three young people are imprisoned at Fleury Merogis"

- Le Monde, May 16, 1970, p. 10

"Nine students indicted: five are placed on bond"
- Le Monde, May 17-18, 1970, p.8

"A young man was condemned to two months in prison for assault and battery to a police officer"
- Le Monde, May 17-18, 1970, p.28
- rerun, Le Monde, May 19, 1970, p. 8 (with only a few additions)

"The attack of the Fachon grocery: a student is condemned to thirty months in a closed prison and fined 3000 francs"
- Le Monde, May 20, 1970, p 32

"The government bill of law instituting parental authority is definitely adopted"
- Le Monde, May 22, 1970, p. 7

"Punishment of prison for eight young people who wrecked havoc in a reception hall"
- Le Monde, May 23, 1970, p.17

"M. Chaban-Delmas: a tiny minority commits violence"
- Le Monde, May 26, 1970, p. 12

"Two young people are imprisoned after a brawl in the metro"
- Le Monde, May 27, 1970, p 7

Special Article:
"Aggression is less the fruit of instinct than the product of the social environment"
- Le Monde, May 27, 1970, p. 8

"Six people are indicted for the provocation of a mob"
- Le Monde, May 28, 1970, p.8

"A student is indicted for theft and violence"
- Le Monde, May 28, 1970, p. 32

"A pupil is condemned to three weeks in prison with a suspended sentence"
- Le Monde, May 30, 1970, p. 9

"Four men, seventeen years old are indited"
- Le Monde, May 31-June 1, 1970, p.10

Le Monde, Feb. 28 – Mar. 28, 1996

"Two minors are condemned to jail at Saint-Etienne after having hit a police officer"
- Le Monde, Mar. 5, 1996, p.27

"The principle measures of the plan (proposed by) M. Bayrou for the fight against violence in the schools"
- Le Monde, March, 19, 1996, p 1
- continued on page 10

"Closed prison for violence towards a professor"
- Le Monde, March 19, 1996, p.10

"Four houses of justice, installed in the agglomeration Lyonnaise, attempts to rule, amicably, acts of petty delinquency"
- Le Monde, March 19, 1996, p 27

"Toughening of the government bill of law on the delinquency of minors"
- Le Monde, March 22, 1996, p.13

"The chief of State took the floor Wednesday, March 20, at the council of ministers to emphasize measures against school violence must be not be a gesture of no effect. It is not necessary to `adapt' to the situation but to `combat' it"
- Le Monde, March 22, 1996, p.8

"The association of teaching deems the usual means against violence as being insufficient"
- Le Monde, March 22, 1996, p.8

"Violence: four young people take an exam and are imprisoned"
- Le Monde, March 22, 1996, p.13

"Many associations denounce the reform of the justice of minors"
- Le Monde, March 28, 1996, p.8

"The relative stability of the juvenile delinquent"
- Le Monde, March 28, 1996, p.8

Other related topics:

Anarchists and Maoists of the 1970's Militants, dissidents, leftists. They engaged in acts of terrorism: torchings and bombings

Political parties for the most part had youth groups.

Some article headlines read "young people" and then the ages might go into 20's, 25, and 27. Other articles do not state ages. For example, references to a "young man" and then he turns out to be 25."Young people" and police clash.

Articles focus on crimes, not age of the offender(s)
Articles focus on students, not youth.

Students occupying office protests.

Youth crime gets lost in other youth issues. For example, voting age changed from 21 → 18. Youth protested that it be lowered after serving "national service
time".

Summary of articles from German newspapers

1. Die Welt, August 1, 1953, Nr. 177, p.3

2 youths charged with manslaughter that the police are in search of. Includes a description of the youth and an outline of the crime committed.

2. FAZ, August 4, 1953, Nr. 178, p.3

Report on crime rates (higher/lower) overall and as broken down by category of crime. "Of the offenders, 90% were adults and 10% were youths."

3. FAZ, July 30 – Aug. 30, 1990: Nothing

4. Die Welt, July 30, 1990, Nr. 173, p. 19

Heading: Criminality in Berlin explodes. The article makes reference to gangs of foreign youth. Comments on the general rise in the crime rate. Political party (CDU) draws attention to this issue.

5. Die Welt, August 24, 1990, Nr. 197, p.4

Topic of the article is the rising number of youths who are beggars. Comments on high unemployment among youth. Calls for churches, youth welfare offices and police to get involved in trying to solve this problem.

Topics of related articles:

Crime doubles in the last 20 years while the number of police has risen by only 17 %.

Missing children

Children who die under tragic circumstances.

Youth events- trips, outings, sports

Crimes against youth: muggings, how much money was stolen, abductions, sex crimes, bodily harm, if any, whether the offender was captured or escaped. Some of the circumstances that surrounded the crime. Whether or not there was an accomplice.

Police unions are very strong in Germany and lobby for money and decision input.

Appendix H

Reference List

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Appendix I

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Appendix J

Vita