RESEARCH RESULTS – 2010
(Summaries of completed research)

Content

I. RESEARCH PROJECTS IN THE MAIN FIELDS OF RESEARCH

THE FIRST MAIN FIELD OF RESEARCH: VIOLENT CRIME

László Tibor Nagy:

Study on violence against public officials. Conducting and concluding empirical research on a nationwide sample

The number of violent acts against public officials showed an increase following the turn of the millennium, and was accompanied by heightened media interest. Attacks on teachers in particular were widely discussed, and as a result the penal code was made stricter in this area. The empirical research analysed 283 crimes, 311 offenders and 320 victims. The most frequent to fall victim are transport workers (drivers, ticket inspectors, ticket conductors). The cause that triggers the act is usually the offender being reprimanded. In the background to these offences can be detected a decline in respect for the norms, a refusal to respect authority (in the best of senses), a kind of bravado, a display of exaggerated self-esteem, the role of the influence of alcohol, and also in more than one case the victim's contribution.
What is needed is legislation that is clear and unambiguous in terms of legal doctrine. In terms of the rule of law, an unacceptable situation has arisen, in which law enforcement officers can only decide on the basis of internal contracts who qualifies as a public official with difficulty. It is also necessary to provide conflict management training for public officials, and it would be advisable to make mediation available for these crimes as well.

Szilvia Antal:

Analysis of the content of the sentence for those imprisoned for life and life without parole, and examination of the practice of sentencing

During the analysis of the content of the sentence for those imprisoned for life and life without parole, and the examination of the practice of sentencing, we examined 70 cases in which, in passing the sentence, the court (of first instance or appeal) imposed a punishment of indeterminate imprisonment. The study comprised the cases of the accused sentenced to life imprisonment in sixteen counties and in Budapest.
Actual life imprisonment is imposed on offenders who have been brought before court several times for grave crimes against life, but whose previous punishment has not prevented them from committing further, particularly grave acts, or in cases where the offenders carried out their crime with such cold-bloodedness, inhumanity and indifference that court had no basis for hoping that their personality might change even over 30–40 years.
The courts' practice in imposing punishment can be said to be uniform in the sense that, when passing indeterminate sentences, they most often set the legal minimum time as the earliest date for release parole. Research findings indicate that, in order to homogenise sentencing throughout the country, it would appear necessary to give a uniform framework for the decision. This may take place through the 'fine-tuning' of legislation, so that the judge passing sentence knows exactly whether or not the concrete decision on the actual release date is in his hands. In this case, technically two solutions are possible: (1) either the inmate should be released with no deliberation on the date of release on license, or (2) a body dealing with the matter in 30–40 years should decide on the date of release (which may also be a viable

procedure). However, in this case (from the point of view of the judge passing sentence) there is little significance whether he sets the earliest date of release on license at 30 or 35 years, since another court body may further amend that date.

Szilveszter Póczik:

Methodological problems in criminal historical studies on murder

This overview in preparation for a criminal historical study on murder was carried out in connection with our being invited to take part in an international project. The conclusion reached was that since the prerequisites, the surrounding scholarly circumstances, and the financial conditions necessary for a historical study of murders were only partially available, and moreover the research initiated would make very heavy demand on resources, and the expected results would have little practical usefulness, it did not appear wise to join the research project on historic research on murder at this time.

Historical criminology today does not yet have a uniform methodology, a structured outline or accepted directions of research. Studies of the historical changes in murders are made primarily by Dutch and French specialist historians, but even there the field is not a mainstream branch of history, and the existing methodology is debated rather than generally accepted. If we consider the history of murder as partly cultural history, partly a statistical problem, the research field may be approached based on micro-historiography and historical statistics. In terms of the history of science and the quantity of data relating to the period of the modern Hungarian state, the conditions are relatively favourable; this cannot, however, be said for earlier periods. Mediaeval sources for a historical study of murder are very difficult to access, systematise and conceptualise.

Western research carried out in this field is problematic even at the level of prior assumptions, because it is difficult to prove whether, behind the fall in number and proportion of murders, was a progressive humanizing process. Much rather, it can be presumed that the decrease in murders derives from the mutual interplay between the elements of a highly complex system of social connections. It is especially problematic to look back as far as the 1300s. A comparison of international and national data related to violent acts would rather seem to indicate an increase, and if murder data are included in the comparison then we may conclude that, in parallel with a drop in murders, the number and proportion of other violent acts increases. The effect of this statistical ‘communicating vessels’ prompts one to study hard indicators: the demography of society is undergoing a considerable change, and the age groups dangerous as offenders and endangered as victims in terms of murder are decreasing in number and proportion. The middle class has grown. Quality of treatment has improved significantly, as have the survival chances of those with life-threatening injuries. Sentencing practice has become far more refined, thanks to which a differentiated legal category system has come into being in relation to acts with fatal outcomes, which in respect of earlier eras but most particularly the pre-modern eras raises the question of distinguishing them from other violent acts and classifying them, which for the eras indicated presents an insoluble methodological problem.

2. THE SECOND MAIN DIRECTION: CHILDREN AND YOUNG PEOPLE IN CRIMINALITY

Orsolya Bolyky – Katalin Parti – Eszter Sárik:

ISRD-2: A comparison of the Czech, Estonian and Hungarian research findings in the study 'Latent Juvenile Deviancies' as related to violent behaviour by juveniles and latent violent deviancies

In 2010 the international comparison continued with an examination of the violent behaviour of Czech, Estonian and Hungarian young people, latent violent deviances, and social factors. A link was sought between violence and the effect of the environment (attachment). We were primarily curious to see whether Central and East European countries have any common peculiarities in terms of violent juvenile crime. We took the sample of 2049 people of the ISRD-2 international comparative analysis as a basis for our research. By establishing attitudes and types of attachment, we typified the special characteristics of the 12–16 age group and the changes that take place as they grow up. We were able to compare all these data with the Czech and Estonian samples, because these countries had made the previous survey on a national representative sample.

Using factor analysis, we divided respondents into four groups: (1) those attached to their parents; (2) those attached to school; (3) those attached to peers, and (4) those attached to where they live. Those attached to their school remain the furthest from committing criminal offences and other deviant behaviours, and it is also they who most reject manifestations of violence. They are followed by those attached to their parents, for whom violence is still not acceptable. The role of school is then prominent in crime prevention.

In examining the attitudes of the pupils surveyed we distinguished three categories: a) risk-seeking, b) egotistical and c) restive types. In our analysis we examined the links between various attachments and basic data (sex, age) with free-time occupations, the force of parental control and checks, becoming a victim, the attitude to violence and deviant behaviours. With regard to the three attitude factors, we analysed the occurrence of crime and the force of parental control through the samples of all three countries.

Based on our findings, the risk of becoming a criminal most affects risk-seeking children who are attached to their circle of friends. Their attachment and attitude is largely determined by weak parental control, the lack of a good relationship built up with the child, and a poor-quality school.

Ágnes Solt:

The chances in life of young people at risk and their tendency to become criminals

This study was based on a secondary analysis of the data of the study 'Young People on the Edge', also incorporating an evaluation of relevant findings of the study 'Analysing the mentality of the inhabitants of segregated housing estates'. The secondary analysis enquired whether we can identify points at which there is a divergence between the life paths and social circumstances of young people who have become criminals and those who are at risk but have not committed offences. The comparison focussed on the risk factors, the effect of the risk

factors manifest in individual acts, the intervention of the early-warning system (primarily the systems of the school and child protection service), and their consequences.
In more than one-third of life histories it transpired that one or more family members in the juvenile's family were subject to regular physical abuse. Domestic violence was twice as likely to occur with non-delinquent juveniles as in the life histories of offenders. Almost three-quarters of young people who became criminals did not receive adequate assistance from school as a child. However, most young people from disadvantaged backgrounds but who integrated into society mentioned a teacher who gave them special attention, and helped them to integrate and complete school successfully. Juveniles who had already done something wrong before the age of ten were more likely to become offenders than juveniles who stood out from their peers by their bad behaviour after the age of ten.
On the basis of what point and in what order the risk factors occur in the life history, observing a chain of reactions and events, it is possible to speak of typical life histories, of 'templates' recognisable in the bare outline of complete life histories. These factors delineate four typical models of life history: (1) a spiral generated by neglect, (2) the model of the aggressive family, (3) the model arising as a turning away from an overly repressive upbringing and (4) a characteristic life history model in which grave problems of livelihood are linked with a lenient upbringing, and the juvenile moves from this milieu into a much stricter system. From there, (s)he typically escapes, and comes into contact with delinquent contemporaries who commit offences, and sets out on a criminal career.
The study used an interdisciplinary method to identify the risk factors, the turning points, typical life histories, patterns of socialization and their effects. The study outlines hypotheses regarding interventions by the child protection care system relating to the probability of integration of becoming a criminal offender.

3. THE THIRD MAIN DIRECTION: PROTECTION OF SOCIETY AND CRIME CONTROL – REACTIONS TO THE CRIMES COMMITTED

Szilvia Gyurkó:

Handling cases of children abducted and taken abroad – a systematic approach

The aim of the study was to reveal the characteristic of cases of children abducted or illegally kept abroad and the operation of the professions with competence in handling the cases, and on the basis of this to provide a comprehensive picture of the multi-sectorial characteristics of the cases. During the research 25 directed professional interviews were conducted with child protection, justice and law enforcement professionals, and five in-depth interviews with those affected in cases of child abduction (children, adults, family members). In addition, two case studies were carried out in order to reveal the process by which the cases are managed and how society sees such cases. The qualitative part is complemented by a questionnaire study of the files of 43 former cases ongoing in 2007–2008 at Pest Central District Court and the Central Authority, which have jurisdiction in international child abduction cases.
The findings of the research show that since EU accession the number of such disputes has grown continually, but there are shortcomings in the relevant knowledge, information and specialist skills of the professionals who work in the institutions with authority and competence in managing the cases. The relative centralization (in case management and authority) realized in child protection and in the handling of cases falling under The Hague Convention functions well. In this area too, prevention should be given more emphasis, since

there is a predominance of typical life situations and offender profiles, on the basis of which in high-risk situations, special prevention (mainly passing on information, and exploitation of the opportunities afforded by the law) could prevent abduction cases, which are seen as grave abuse of the children. According to the research findings, the risk factors are: a marriage between representatives of different cultures, inadequate social interaction between the parent (mother) living in another country and their spouse and children, employment and financial problems, domestic violence, difficulties in staying in contact (within the national border), and conflict during divorce.

4. THE FOURTH MAIN DIRECTION: GLOBAL CRIME

Imre Szabó:

The criminal responsibility of intermediary services

The purpose of the research was to gauge how Hungarian penal doctrine could be affected by the application of the rules on liability for intermediary services participating in electronic commerce. In line with Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market, adopted on 8 June 2000 by the European Parliament and the Council, these rules were incorporated into Hungarian Act CVIII of 2001 on certain issues pertaining to electronic commercial services and services related to the information society.
After surveying relevant foreign and Hungarian literature, it became apparent that there is no legal practice in Hungary for applying rules on liability for regulating the liability of intermediary service providers, other than the Penal Code. This is in spite of the fact that it is essential – primarily related to crimes perpetrated on the Internet – to apply these rules, with special regard to the horizontal regulation of the Act on Electronic commerce containing the rules on liability, in every field of the law, thus also in penal law.
In German jurisprudence literature, in relation to horizontal legislation, the basic problem is the issue, during the application of the rules, of which of the conceptual elements of the crime should be the subject of the examination of liability rules. Bearing in mind that this was presented as the main problem in the (primarily German) literature, the study primarily focused on this area.
The study examined the German model solutions for this problem, and compared them, primarily through a presentation of arguments for and against. As well as the main models of application (Vorfilterlösung; Integrationslösung), the research looked at the trends that have formed after them (including the approaches of Sieber, Sieber and Vassilaki).
The finding of the study is that jurisprudence is divided in this issue. In order to determine what consequences such model solutions have in Hungarian doctrine, more research is needed into the topic, including mapping the consequences in doctrine relating to the conceptual elements of the crime.

5. THE FIFTH MAIN DIRECTION: RISKS – PREVENTION

Katalin Parti – György Virág:

Sexual abuse on the internet – empirical research

In the framework of this two-year research project, this year a start was made on the survey of the Internet usage habits of secondary school children in Budapest in years 9–10, and the volume and nature of online sexual harassment they experience. This year's phase of the research was the data analysis of a questionnaire administered to a representative sample of the pupils indicated in December 2009. In the research the Hungarian data were compared with the findings of foreign studies, in order to reveal whether there was a difference in the attitudes to children who use the Internet to online risks in countries in the EU before 2004 compared to those that joined after 2004.
In 2009, as part of the research, we began a preliminary instructional programme to raise awareness of the risks of using the Internet (with emphasis on the risks of becoming a victim and how to avoid this). In this school instructional programme, pupils aged 10–18, teachers and parents received detailed information on the true risks of Internet use. In line with the findings of the empirical research, additions were made to the instructional programme in 2010.

Andrea Borbíró:

Statistics-based risk and needs assessment. Risk assessment procedures in international penal justice

In this study we examined statistical means of measuring risk in criminal justice, i.e. the risk of those who have already offended repeating a crime. In summarising risk assessment procedures, we examined methods aimed at estimating the extent to which a (potential) offender or victim is at criminal risk, and thus their expected future behaviour. Although attempts to do this have been present in criminology since the beginning of the twentieth century, the new millennium brought with it a new interpretation of risk-centred crime control. This tool, hitherto unknown in Hungary, has in many countries become a defining institution of tertiary prevention, and, with a growing appreciation of attempts at social protection and correction, it can be expected to spread further.
The methodology of procedures for criminal risk assessment shows great similarity with elements of insurance risk assessment. In the procedure, the presence of each risk factor and its expected consequence is evaluated in a structured form using statistical tools. Today most procedures aim to detect dynamic elements of the tendency to become criminal, particularly criminogenic needs, which has introduced a whole new series of groups of factors into the procedures. Thus, alongside statistical methods, certain procedures deal on the one hand with groups of risk factors such as housing, financial circumstances, skills/employment, family relations, social relations, etc., and on the other hand with the examination of psychological risk sources (first and foremost cognitive orientations, attitudes, mentality, and thought patterns).
During the research we collected the common forms of statistics-based risk assessment in international practice, and examined them primarily with regard to their aim and effectiveness in criminal policy. One striking characteristic of contemporary trends in criminal policy is that

in many countries more and more aspects of criminal justice rely on the institutions of risk assessment. Offender risk assessment poses many new questions for criminal policy, some of which are related to the effectiveness and usability of the tools, some of which however touch on issues of the rule of law, guaranteed protection and the traditional tasks of criminal justice. The research found that statistics-based risk assessment procedures may, with suitable care, contribute to achieving the aim of tertiary prevention.

Szilveszter Póczik:

Empirical study of attitudes to the extreme right wing and violence among young adults in higher education

This empirical research targeted a leading social stratum, which represents a large section of the population and whose attitudes are of decisive importance.
In this research we planned to survey a sample of 300 middle-class young people studying in colleges. The survey finally resulted in 231 evaluable questionnaires. Two colleges of differing specialist orientations were involved in the research, one Budapest humanities college, and one provincial predominantly technical college. In terms of the age, sex, qualifications and place of permanent abode the sample was representative of the population studying in colleges. The parents' qualifications and professions met expectations, so we had indeed managed to find the 'middle of the social middle'.
The results of the research indicated that the respondents have learned the democratic pluralist system of values only at the didactic level. Among the respondents, very few show any sympathy for aggressive, anti-democratic behaviour or systems of thought, but the acceptance of the democratic pluralist world of values and their attachment to it is not backed up by sufficient knowledge or an internalized system of principles. The answers show a lack of solidarity, a democratic deficit, minimal social awareness, and a lack of compunction due to a lack of knowledge and ideas.
Our conclusion is that it is essential to reinforce the teaching of historical and social knowledge in primary and secondary education, and that for democratic political awareness it is essential to disseminate basic and background general political knowledge in a continuous and targeted manner, for which Germany provides a good example.

Tünde Barabás – Szandra Windt:

The opinion of Budapesters on crime and restorative justice

In the study 'The opinion of Budapesters on crime and restorative justice' in 2009, we conducted a survey consisting of questions on crime, punishment, becoming a victim and restorative justice on a sample of 500 Budapest adults. This study, representative in terms of sex and age, reinforced the great majority of earlier findings.
It transpired that Budapesters do not have a realistic picture of crime, and for various reasons misjudge the way it is changing. Many circumstances may play a role in this; for example, sex, age, and whether they have previously been a victim have a great influence. Only 3% of respondents were able to make an approximate guess at the number of known crimes, 55% underestimated it considerably, while a third overestimated it to a larger or lesser extent. In terms of becoming a victim, the findings of earlier studies were reinforced. In contrast to the 2% proportion of victims shown by official statistics, in the research about one-fifth (20%)

spoke of the fact they had been victim of a crime in the year preceding the questioning. This proportion shows that ten times more people become victims than indicated by official figures. Looking back on their lives, only 37% of respondents said they had never in their life been a victim. With regard to victims of crimes committed in 2008, hardly more than half of them reported the offence (52%). Respondents preferred not to report cases they categorised as theft, robbery, causing damage, bodily harm, disorderliness, domestic violence, while in cases judged to be harassment, breaking into a car, robbery of a car, breaking and entering or data abuse they went to the police to report it (because of insurance). The study also showed that people who have been victims at some time in their life see their living environment as much less safe. This is obviously connected to the poor state of mind resulting from their having been a victim. Since among the answers the most frequent were breaking and entering, car theft and theft from inside a car – acts which are often linked to the home – the connection is understandable. In addition, of the 500 respondents 246, i.e. nearly half, thought that they might be attacked on the street near to their homes (136 women and 110 men). This fear, which can be considered far more irrational, can rather be attributed to the media representations suggesting an increase in violence.

Imre Szabó:

Certain issues in the storage of computer data

The research proceeded along two directions: (1) a detailed study and presentation of the legal institutions for crime detection/prevention and criminal proceedings related to obtaining computer data, and (2) an examination of the extent to which computer data are obtainable in international cooperation in criminal matters. The starting-point for the research was the study of the rules of the Cybercrime Convention of the Council of Europe, in view of the fact that the obligations undertaken in the convention have been incorporated into domestic legislation. During the study of the English Explanatory Report to the Convention it became apparent that, in order to detect crime it is important for the participatory states to cooperate, in regard to which the Convention contains further rules. At this point it became necessary to broaden the research to the tools applicable in international cooperation on criminal matters.
The research studied the legal institutions used to obtain computer data (primarily those used for acquiring information secretly), then compared these with the objectives set out by the legislators of the Cybercrime Convention, in order to determine whether the legal institutions, referred to by differing names in various legal statutes, can be matched to the rules found in the mother convention. In addition, the research gathered together those relevant legal institutions applicable in cooperation on criminal matters through which it becomes possible to obtain computer data when detecting cybercrime, both in crime detection/prevention and in criminal proceedings. The study covered international cooperation in criminal matters and on a regional basis, primarily within the European Union. The study may serve as a basis for becoming acquainted with the rules and regulations of international cooperation in criminal matters, and learning the most recent forensic methods for obtaining computer data as electronic evidence.

6. THE SIXTH MAIN DIRECTION: ECONOMIC CRIME AND CRIME AGAINST PROPERTY

Gabriella Kármán – Ádám Mészáros – László Tibor Nagy – Imre Szabó – Szandra Windt:

A study of criminal offences against intellectual property rights

During this study, commissioned by the National Board against Forgery (NBAF), we carried out an analysis of the criminal statistics and legal doctrine related to six criminal offences against intellectual property rights. While the total number of crimes in the period under examination (2002–2009) fell by 3%, crimes against intellectual property doubled. Among these crimes, infringement of copyright or of rights related to copyright are outstanding in number (Penal Code Article 329/A). One characteristic of the crime category examined is the exceedingly high number of offences per offender, the large proportion of experts used and the high costs related to criminal proceedings.

One of the main questions of the empirical part of the research was the extent to which the application of the facts of the cases under examination is clear and unambiguous and, with regard to the offences, the extent to which the judgement of the offender's behaviour is clear and unambiguous. Based on the findings of the empirical examination, one of the most important problem areas is related to 'pirated goods' type cases. In studying the cases, we noted an extremely wide spectrum of judgements of the offender's behaviour, and of the reasons for the qualification. With regard to problems of the legal interpretation of acts related to distribution, we examined the mutual interrelation between the elements of the facts of Section 329/A of the Penal Code, and the extent to which one can establish whether an act is committed in a pattern of criminal profiteering. Comparison of the application of the law in practice led to contradictions regarding the extent to which one can establish the pattern of criminal profiteering. In offences related to carrying out distribution, it often happened that, for the same type of behaviour – typically the user's offering for sale software copied without a licence – in some cases a specific criminal offence was established, and in others it was not. It is important to unify the application of the law in this area. In the doctrinal analysis, we dealt with issues of liability of individuals related to file-sharing systems (downloader, uploader, service provider operating a file-sharing site). We examined the conditions necessary for the doctrinal system of criminal law to be able to link criminal liability to the acts of each participant. As a result, we concluded that the uploader and downloader can be held liable for their behaviour as perpetrators infringing the rules on copying and making publicly available according to the law on copyright, while the operator of the site can be held responsible for his own behaviour as an accessory in respect of his negligence over these behaviours.

We examined the reasons for recourse to experts, the questions put to experts, the methods employed and the knowledge noted by the expert during his work, and the expert opinion taken in the strictest sense. In the area of 'infringement of copyright and rights relating to copyright', typically an IT expert was called in. We noted that the expert was most often called in to ascertain the content of the digital media. In the majority of cases, however, this requires no special expert skill. Additionally, it is important to note that often the authority left the expert to judge the legality/illegality of the act, which clearly lies in the competence of the dispensers of justice.

In respect of specialist IT questions, we examined expert issues related to file-sharing, in which we dealt with the difficulties of proof in the cases of copyright infringement realized via file-sharing systems operated with torrent technology and dc++ technology. On the basis of the cases examined we presented best practise, the application of which helps to overcome many of

the difficulties relating to proof. Among our main findings, we highlighted the point that in designating the limits of competency of the specialist field, and in unifying experts' methodology, great assistance would be provided by opinions issued by expert bodies.
We also carried out an analysis of sentencing practice related to the groups of cases examined, in which we drew attention primarily to the contradictions related to fines, fines as a supplementary punishment, mediation, the criminal liability of a legal person, and the difficulty of proof.
Without doubt, the digital-information revolution necessitates a paradigm shift in the field of protecting intellectual property. We see the solution, rather than in criminalising a considerable section of society, in the fast and effective investigation of crimes, concentrating on offences committed in a pattern of criminal profiteering and bringing them to justice, in broadening the specialist knowledge of the staff in the authorities dealing with such matters, and in developing instructive and informational activities to disseminate the law, particularly among young people.

Szilveszter Dunavölgyi – Katalin Tilki:

General and special action of civil defence in the area of environmental protection II

This research, begun in 2009, on the one hand reviewed the organisational system of civil defence, studied the relevant international and domestic legislation, and on the other hand, through two significant catastrophes in Hungary in 2010 – one natural in origin, one industrial (the nationwide spring floods, and the autumn spillage of red sludge) – examined the characteristics of damage limitation practice (including environmental damage) of this apparatus and of other organisations. The research employed the method of analysis of legal doctrine and document analysis. During the legal doctrine analysis, the study evaluated and interpreted the international and domestic legislation in force, and examined it critically.
The findings of the research show that the Hungarian regulation of the systems related to civil defence is highly complex, to the point of being impenetrable. The range of tasks of the state related to the management of problems and dangers of differing and varying gravity can be found in several acts of parliament and the related decrees implementing them. The bulk of these stipulations have in recent years in many cases been amended in such a way that neither any analysis of the situation of the given (regulatory) area, nor any realistic survey of it, nor any examination of the (short-, mid-, and long-term) effects of the planned changes were carried out.
The findings of the research made it necessary to draw up several critical remarks. (1) It is a grave shortcoming of legislation that, even in the ten years since Act LXXIV of 1999 entered into force, it has not been possible to form a uniform, defining concept of civil defence. (2) There are no criteria for measuring the efficiency of the organization operating in the area under examination. (3) Over the last 10 years the contents of the norms related to this area have not been harmonised, and there has been no success in cleansing legislation at various levels from any parallels or overlaps.
The recommendations made on the basis of the findings of the research emphasise the importance of alignment of the law (for instance, harmonisation of measures aiming to reduce the damaging consequences of disasters of natural and human origin with the broad and manifold cooperation with domestic and international organizations, through the efforts of the UN, NATO and the EU). The research emphasises the necessity of reducing the risk of disaster and preventing disasters (for instance, the responsiveness of the apparatus must be

increased, and in addition, a greater role must be given in this area to wide-scale information for inhabitants, because through this the damaging consequences of cataclysms and heightened risk situations can be prevented or significantly reduced). The research findings also point out that reduction and prevention of disaster risks can become effective if decisions are in line with the particular (and complex) problems of the area, local realities, and furthermore if they are based on surveys and situation analyses which provide a firm basis for directions of action.

Gabriella Kármán – Anna Kiss:

Identifying stolen artworks

The objective of the research was to explore why few criminal proceedings are initiated in this area, and why, in the few criminal proceedings initiated, no charges are brought, and investigations are discontinued. The research employed the methods of legal doctrine and qualitative research.
The analysis of legal doctrine included an interpretation of the Hungarian law in force, a critical examination of it and a comparison of law and the legal practice of law enforcers. The empirical research examined the practical problems through a round-table discussion, by conducting individual interviews and the organisation of a conference on the theme. The focus-group discussions and interviews aimed to summarise the experiences of experts with highly specialist knowledge: ten detectives, prosecutors, art historians, physicists and restorers.
The findings of the research show that thefts of works of art are associated with a considerable number of other criminal offences, either against property or economic in nature. Crime prevention in Hungary is beset by many difficulties. One of the main obstacles to investigations in this area is the lack of legal clarity on issues regarding cultural goods, as well as inadequate record-keeping, and the specialised nature of forensic identification. In forensics, the examination of the object is specialised because the identification of artworks is in itself an area requiring special expert knowledge and so it is far from clear how the specialist literature treats this. The research raised not just questions of identification, but the problem of the authenticity of the artwork, and attempted to clarify the difference between forgery and adulteration, as well as to distinguish between the various forms of adulteration.
In line with the above, the study drawn up on the research addresses mainly criminal law, procedural and forensic issues, using and analysing the legislation serving as a basis, and what was said in the round-table discussions, the interviews and the conferences, together with the specialist literature on the topic.

Szilveszter Dunavölgyi – Katalin Tilki:

The enforcement of environmental protection regulations, as seen by the authorities

The objective of this research, started in 2010 and planned for two years, was a) to pinpoint the difficulties of detecting cases relating to criminal offences of damaging the environment; b) to reveal the problems of proof; c) to bring to light the working of the legislation in practice, with possible anomalies and d) to draw up recommendations.

This year the researchers organised two focus-group discussions, taking part in which were staff from the prosecutor's office and the police who deal with criminal offences damaging the environment. This year's focus-group discussions indicated several theoretical and practical problems, and shed light on organisational problems in many areas. The prosecutors' experience (be they from public administration or civil law) is that reports of offences damaging the environment are typically made by the environment protection authorities, national park directorates, customs offices, and district/local councils, whereas private individuals rarely initiated proceedings. In practice, the most problems were caused by the application of the legal facts for infringement of waste management regulations. There are difficulties with the interpretation of the very concept of waste; the concepts of construction debris and inert waste are constantly confused. Based on the disclosure of the practical problems, it would seem necessary to modify the concept of waste in the Criminal Code so that some quantitative or qualitative condition be set down therein. A further problem is that the Public Prosecutor's Office is not supported by specialists (accustomed to examining activities damaging the environment), and the investigating authorities have very few staff specialising in this area. The police staff reported similar difficulties of proof and organisation.

7. THE SEVENTH MAIN DIRECTION: THE STRUCTURE OF THE STATE, PUBLIC AUTHORITY – REGIONAL ISSUES

Szilveszter Dunavölgyi:

Data protection and confidentiality regulations: an overview of their practice in Hungarian criminal law II

Originally planned to last two years (instead of 2009 it actually started in 2010), this research examined the nature of investigations into breach of confidentiality and abuse of personal data, based on several documents from cases registered between 2004 and 2008 in the Unified Investigating Authority and Prosecutor's Criminal Statistics. (In the above-mentioned period and following it, the act on data protection and the act on protection of secrets were subject to amendments, as a result of which the legal facts of the Criminal Code relevant to the topic also changed.)

The bulk of cases examined related to abuse of personal data affect the area of police administration, which in the vast majority of cases is carried out by handling data in a manner at odds with the purpose in hand. In this manner, the criminal offence is committed by police staff – often those with many years of service behind them.

In the typical criminal behaviour, the offender, breaching the (legal and internal) regulations of data processing, using their access authorisation to various public administration databases (e.g. registered address, transport, passport, criminal and other records), makes a query on data of persons unrelated to the official cases they are dealing with. The information queried often comes under the scope of special personal information (e.g. information related to a previous criminal record). The common feature of abuse of personal data perpetrated by 'civil' offenders is the achievement of some selfish interest (for instance, revenge, discredit, or misleading the authorities). Another typical feature of these proceedings is that the accused deny that they have committed a crime and their guilt, not only when informed of being a suspect and during the first questioning as a suspect, but throughout the entire proceedings. The lack of a confession of guilt from the accused, however, posed no difficulty in resolving the cases thoroughly. In these

cases a prime role is taken by documentary proof. A peculiarity of such cases is that sometimes there was great confusion in classifying the offence.
Of offenders' – deliberate – behaviour involving abuse of classified data or, in the old terminology, breach of secret, the most common was unauthorised use. The most typical case of negligence occurs when the formal stipulations, technical regulations or the so-called 'secret matter management' (TÜK) norms relating to digital media forming state or service secrets are not kept, and thus the classified information (may) become accessible to unauthorised persons. In general, the proceedings did not clarify which regulation the classification of the data made accessible to unauthorised persons was based on, or whether they were classified as state or service secrets at the time of the offence or thereafter. The most typical common feature of the cases examined was that a legally binding court conviction was not brought in a single one; indeed, the bulk of cases ran aground in the investigation phase. In our opinion, this is the response of the judiciary to the 'secret protection' anomalies indicated above. The relatively low number of cases also gives the impression that, in the safeguarding offered by criminal justice to protecting data and secrets, the situation is not favourable in every area.

Géza Finszter – Anna Kiss – Ádám Mészáros:

The entry into force of the new novella of Criminal Proceedings

The objective of Act LXXXIII of 2009 was to improve the timeliness of criminal proceedings. Behind the novella in the Act on Criminal Proceedings lay the aim that, by accelerating proceedings, it is possible to increase the effectiveness of proof. According to the research findings, this assumption is not necessarily true: accelerating the wrong part of the proceedings jeopardizes their ultimate aim, the determination of the truth.
The implementation of the prescriptions of the novella cannot be evaluated without an examination of the preceding state of affairs. The study hence reviewed the practically forty-year history of changes in procedural regulations, from Act I of 1973 right up to the attempts to reform proceedings following the change of political system in 1989. It conducted an overview of the period up to the entry into force of Act XIX of 1998 and then gave in detail the amending provisions of the novellas of 2006 and 2009. No final conclusions could be drawn because little information is available regarding the practice of the changes in 2009. The majority of amendment rules serve to correct the internal contradictions and errors of codification which have been a burden on the Code since its adoption by Parliament of the act of 1998.

Anna Kiss:

The relationship between the investigating authorities and the Public Prosecutor's Office in the first phase of criminal proceedings

According to the Criminal Procedure Code of 1998, the legislator broke with the theory of division of powers, according to which the phases of the procedure are of equal value. Instead, following Western European patterns, he re-evaluated the tasks and roles of each phase. The task of investigation is, according to the law in force, to collect the evidence necessary to bring a charge. For this reason, the Criminal Procedure Code states that the prosecutor conducts investigations in order to establish a charge that can be brought, in other

words the legislator has made the prosecutor the chief of the case. The aim of the research was to discover why this part of the Criminal Procedure Code has not entered into force.
The research employed partly the methods of legal doctrine and partly those of qualitative research. The latter included two round-table discussions and 20 individual interviews, held with fifteen prosecutors and five detectives.
The legal doctrine analysis of the research interpreted the regulations relating to the Hungarian law in force. Given the practice of law enforcers, the findings indicate that the enforcement of the law strays from the legislator's intention. The qualitative research linked to the analysis of legal doctrine revealed that in the everyday work of the enforcement of the law, the theory of division of powers as practised is that of the previous Criminal Procedure Code, not the new one currently in force.
To the question 'why?' the research found the answer on the basis of what was said in the two round-table discussions and in the individual interviews. The new legislative vision in creating the new Criminal Procedure Code exists purely in legislative form, and in everyday practice, as pursuant to Act I of 1973, the prosecutor is not in charge of the case, since neither the investigative authorities nor the Public Prosecutor's Office were open to this reform. At the background to this, most often is the fact that the Public Prosecutor's Office lacks the investigative techniques and knowledge of forensics which would make the entry into force of the law possible. Neither are staff numbers sufficient to perform the existing tasks. According to the specialist prosecutor, the rules of the new Criminal Procedure Code cannot be implemented in practice because there has not been the necessary change of approach, either in the investigative authorities or in the prosecutors' offices. The attempts to provide too much proof can still be detected today, although in evaluating the evidence gathered it is not the quantity but the quality which is of decisive importance.

Géza Finszter – Ádám Mészáros:

New regulations for covert surveillance

Covert surveillance may be carried out by the investigative authorities and the Public Prosecutor's Office, as well as those crime prevention services that have no powers as investigative authorities. (These are the national security services, and the Defence Service of Law Enforcement Agencies, currently in transition. In future these agencies will, according to plans, be the independent directorates general, fulfilling domestic crime prevention and detection tasks and counter-terrorism; they will not fall under the general scope of central police agencies but will operate under the direct control of the minister responsible for law and order.)
The social objective of anti-crime covert surveillance – and its only legitimate purpose – can be to prepare for justice. Our recommendation is to draw up, with the exacting standards of strategic legislation, comprehensive new regulations for covert surveillance, according to the following principles:
(1) Anti-crime covert surveillance should be regulated only in the Penal Code.
(2) Such surveillance should only be possible as part of an investigation, fully subject to the order of the prosecutor.
(3) Covert surveillance for anti-crime purposes should be permitted only and exclusively by a crime prevention agency with the powers of an investigative authority.
In line with the above, in the act on the police, new regulations should be made for the system of operation of surveillance of the national security services, and for rules on other covert

surveillance not for crime prevention. (A good basis for this is provided by the bill currently before parliament, no. T/1426).

8. RESEARCH PROJECTS OUTSIDE THE MAIN FIELD OF RESEARCH

Ádám Mészáros:

Current issues of criminal responsibility 2: Lawful preventive defence

The institution of lawful preventive defence was introduced into the Penal Code by Section 5 of Act LXXX of 2009, coming into force on 9 August 2009. Prior to this, sentencing practice did not recognize the lawfulness of pre-emptive self-defence, arguing that without an attack or the direct risk of attack a situation of lawful defence does not exist. The deterioration of the sense of public safety has, however, created a need that citizens, through the creation of various alarm and defence mechanisms, may themselves take in hand the protection of their personal safety and their goods. This need was satisfied by the act referred to, which, in the interest of placing greater emphasis on the purpose of lawful defence in criminal policy, expressly allows the use of such measures.
The research examined the problems related to regulating lawful preventive defence through an analysis of legal doctrine based on an interpretation of criminal law, a critical examination of it, a comparison of law and a presentation of practice.
(1) It revealed that the problem arises in evaluating an unlawful attack (e.g. the defence measure is set into operation in spite of the fact that some reason ruling out illegality rules out the unlawfulness of the attack).
(2) Problems may arise in relation to defence measures not considered adapted for extinguishing human life (e.g. with the 'appropriate' use, almost any device may be adapted for extinguishing human life).
(3) It is questionable what happens if the device is installed in the knowledge it is not adapted for extinguishing life, and indeed is not adapted for that end, but still the attacker dies (e.g. he falls into a trap, and over a long period bleeds to death).
(4) Also problematic is the extent of the intention to defend (the defence equipment cannot gauge the threat posed by the unlawful attack, the objective of the attack, and what may be the possible consequences), and
(5) The examination of proportionality (how does the 'defender' foresee the possible consequences of an as yet uninitiated attack, and not knowing them, what is he defending himself against).
(6) The question arises as to how praetextus (delaying the reasonable time for lawful defence) can be avoided if the defender is not present.
(7) Problems may be caused by the fact that the defender – unlike the 'basic case' of lawful defence – is denied the opportunity of voluntary resolution of results and the related impunity.

II. RESEARCH PROJECTS INITIATED BY THE CHIEF PROSECUTOR'S OFFICE
(Finished research projects)

Szilvia Antal – Klára Kerezsi– József Kó:

The social costs of penal justice

In Australia, Canada, the Netherlands and the United States, crime-related expenses are in excess of 5% of GDP.

The object of this research was to measure the cost to society of criminal justice in Hungary. Undeniably, many problems in calculating the costs of crime are as yet unresolved – and our research also left a good few questions unanswered. Some questions are conceptual, some are empirical, and arise simply from the fact that we do not have adequate data. The conceptual questions include the opportunity to choose between the 'top-down' and the 'bottom-up' methods of calculation. Theoretical questions include evaluating the expenses related to fear of crime, particularly striking in risks associated with terrorism.

Many problems arise with empirical examinations, since measuring the costs of crime requires the procurement of many types of information which either do not exist at all, or not in an appropriate form. Today, researchers still face still many such barriers. To estimate the costs to the victims and the costs to the healthcare institutions in treating victims of violent crime would necessitate a large-scale survey to find out what type of injuries are typically caused by what type of violent crime. It appears that the methodology of estimating is given increasing attention. Based on a survey of the literature, it seems that methods of calculating the cost of crime are relatively well developed with regard to crimes against immediately identifiable victims (e.g. breaking and entering, bodily harm); in crimes the committing of which can be accurately defined (e.g. vandalism, car theft); and in crimes that cause loss of assets or physical injury. Cost calculation methods are less well developed, if at all, for the so-called victimless crimes (e.g. drug peddling, or trafficking in drugs); in offences which are not immediately noticeable or identifiable (e.g. fraud in business, corruption); and crimes causing psychological distress.

During the research 1) we reviewed the international literature related to calculating the cost of crime, 2) we collected the data and information essential for calculating the costs to society of crime in Hungary, and 3) we developed a measurement model for the costs to society of crime in Hungary.

Because of the uncertainties referred to above, in estimating the damage caused by criminal offences and the costs to society of criminal offences, we used the 'step by step' method. Starting from the most certain data, step by step we included the other factors to be taken into consideration. In the first step we summarised the expenses for society related to crime. Beyond criminal statistics, we used other studies and databases, taking into consideration not only the primary costs directly related to crime but also the secondary social effects, which are often left undisclosed.

The result of the cost calculation cannot be summarized in the form of one single figure. Depending on the approach and the interpretation of the social effects of crime, the figure calculated changes. If we consider only the social costs, in the base year for the research (2009) the damage caused by crime was HUF 434,501,776,949. Subtracting from this the value of the profit to criminals, we arrive at the sum of HUF 235,194,659,014. To this are added the sums spent by the state on crime investigation, justice, imprisonment and crime prevention. The total of these state outlays in 2009 was HUF 326,215,466,000.

In one single year, 2009, crime caused damage of HUF 760,717,242,949 (seven hundred and sixty billion seven hundred and seventeen million, two hundred and forty-two thousand nine hundred and forty-nine forints), in other words it required that much investment from the state. At the same time, comparing the costs of crime and outlay by the state, it can be seen that the state expenses related to crime are approx. Ft 100 billion higher than the damage caused by crime (Ft 235 billion).

Tünde Andrea Barabás:

New directions in 'court diversion' and restorative justice

The research examined the theoretical and practical opportunities for implementing mediation in penal enforcement in the light of international experience. Although most restorative programmes in other countries in Europe take place outside prisons, in recent years a 'new direction' has arisen with increasing emphasis being given to the use of the tools of restorative justice within prison walls too.
The analysis took as its basis the Belgian system (uniquely effective in international literature) and the German solution (extremely similar to the Hungarian legal system). It transpired at the very outset that projects are neither uniform nor centralised. One of the main reasons for this is precisely the legal regulations: in other words, not only the Anglo-Saxon solution makes it possible for the parties to exploit this opportunity with relative freedom within prisons, but the Belgian and German solutions also choose the permissive solution, not limiting the opportunity for mediation to certain phases of the criminal procedure, and not tying it to various special conditions regarding the offender and the offence, as with the Hungarian regulations.
The various models are used in different kinds of conflicts, thus we find examples not only of cases between the offender and his/her former victim, but of cases between offenders and other offenders and between offenders and the prison staff. During the analysis it became apparent that the Belgian prison mediation solutions are the most developed: there several projects focus on the conflicts between inmates imprisoned for particularly long periods for serious crimes. In Germany, although experiments have been in progress since the 1980s (primarily for sexual and other violent offences), these have not become widespread, and in practice it is the 'extramural forms' of mediation which are practised to a much larger extent.
In Hungarian legislation, the objective of penal mediation is not to foster reconciliation between the parties; indeed, at present it is not suited to such an end, partly because of the unclear legal framework, partly because of a lack of implementing bodies, institutions, civil parties and experts. The analysis also dealt with recommendations relating to implementation in Hungary. It appears that in Hungary mediation could be well employed in two areas of penal enforcement: in the settling of conflicts between (1) offender and victim and (2) between inmates. However because of the closed, hierarchical structure of the Hungarian prison system, it is not recommended for conflicts between inmates and prison staff. Mediation in prison can happen in the two conflict types above if two conditions are both met. The first condition is the incorporation into Act 11 (II) of 1979 of the opportunity for mediation. An increasing number of passages seem suitable, but the most justified is the provision in Section 38. Amongst the conditions related to the development of the sense of responsibility of the convicted offender, there is reason to provide the opportunity for the convicted offender to apologise to the victim or a representative of the community for the injury caused, and as opportunity affords, to agree on compensation during the prison term, or following it. In settling conflicts between inmates, Section 43 needs to be supplemented, in

terms of meting out punishment. It is necessary to include in paragraph (1) of Section 43 that the punishment selected should take into account whether, during mediation, the offender has apologised to the victim, and the victim has accepted the apology. In addition, it is necessary to regulate mediation within the criminal procedure, either as part of Act CXIII of 2006 on mediation (by amendment) or in data management regulations, enabling the mediator (who may be external) working in the criminal procedure to access the victim's data, exclusively for the purpose of contacting the victim.
The other essential condition is the creation of a range of training courses, accessible for prison staff and for the bodies/persons carrying out mediation in prisons. Due to the special nature of mediation within prison, one key to the professional and effective use of mediation is training to influence the approach of staff, and to give the professionals carrying it out a grounding in the special rules, circumstances and knowledge related to the prison setting.

Dávid Vig:

Affirming individualization and deciding on the degree of enforcement of incarceration. An examination of theory and an international perspective

The system of penal enforcement is characterised by the principle of differentiated enforcement of uniform custody. The other side of this is individualisation, and means the individualised application of the tools and methods of penal enforcement with respect to every single convicted offender. The classification covers the division of the convicted offenders into various groups, and the compulsory rules for this are the rules of segregation, but they can also be categorised according to other criteria. In penal enforcement in Hungary, various enforcement regimes have developed for degrees, security groups, divisions, and groups, to which are linked different provisions according to the milder rules for enforcement.
The study used a comparative legal and historical method, and the findings indicate that, in other European jurisdictions too, it happens that the court makes no provision for the degree of enforcement, or that the categorisation uses a different set of criteria from the Hungarian one; findings also show that the theory and practice in Hungary of the classification into degrees and groups also raises questions. For example, a degree determined by the court gives little room for discretion, rendering the enforcement more stringent. In relation to international experience too, the question arises whether the decision on the degree of enforcement ought perhaps to come within the competence of the penal enforcement body – naturally provided that adequate opportunities are created for supervision by the court. At such times, it may be necessary, after intake, to operate a broader, longer-term intake and preparation group policy than at present. In this case (in economic and organisational sociological terms too) it should be evaluated whether this and the evaluation serving as a basis for the division into categories should be carried out at a central location, at the regional level, or in the given institution. Naturally, in this case considerable developments should be made in the institution personnel dealing with categorisation and evaluation.

Andrea Borbíró:

Opportunities for developing prevention-focused treatment programmes in penal enforcement

The aim of the study is to map the effectiveness of treatment tools applied in the field of tertiary prevention, and review the conditions for their viability in Hungary in the long term.

The scope of the study covers targeted and structured interventions directed at preventing recidivism. A common element of the programmes is that they contain some element of correction, that is, basically they aim to change the behaviour of the convicted offender. Within this, however, we have not differentiated between the sanctions in which the programmes are applied, nor according to whether they are implemented in closed establishments or in community settings.
In 2010 the international experiences were reviewed, with a dual objective, partly to identify the programmes which might later serve for good practice in Hungarian penal enforcement, and partly, through the presentation of international findings, to provide a basis for reviewing domestic practice later. The aim of the project was not, therefore, to create a new body of knowledge, but to summarise and evaluate, based on theoretical and empirical knowledge, the correctional programmes widespread in international practice and to introduce this knowledge into the professional discourse in Hungary.
The available data indicate that, in the field of tertiary prevention directed at reducing recidivism, there are programmes that have a demonstrable crime prevention effect. In the review, we gathered together the conditions necessary for effectiveness. According to the findings 1) programmes that focus on individual behavioural correction are more successful than those that aim to change structural conditions; 2) programmes based on voluntary participation are more successful than those built on coercion or deterrence; and 3) programme planning and implementation have a significant impact on effectiveness.

Szilveszter Póczik – Judit Utasi:

Consequences in criminal law of overstepping the right to freedom of speech. Hate crimes in Hungary and Germany

In this study we reviewed European conventions and documents, including the decisions of the Council of Europe and the European Court of Human Rights, the framework decisions of the European Union, and we defined the hate-inciting motivations for Holocaust denial. In relation to this, the relevant laws of German or partially German-language countries were collected, compared and analysed.
In the current German legal system, based on historical experience, the criminal sanctioning of the expression of racial hatred is of outstanding importance. Hate speech is punished by the facts of insult in Section 185, and paragraph (1) of Section 130 of the Penal Code, on the incitement to hatred. In the section on offences against public order, in the facts of incitement, the Austrian penal code prohibits every form of hate speech or hate propaganda, if it jeopardises public order or seriously infringes human dignity. Racist declarations are punished in Switzerland by the Section 261bis of the penal code (StGB) and by point 171c of the military penal code. These regulations, though highly different in terms of legal structure, solutions and verbal expression, serve the same system of democratic political aims, while they lead to intense debates in public political forums.
In researching hate speech, a review was also made of English language literature. The Bill of Rights, comprising the first ten amendments to the United States constitution, mentions unlimited freedom of speech and of the press as the first right. There are speech acts which do not enjoy this protection, such as child pornography, lasciviousness, obscenity, slander, blasphemy and ‘fighting words’. A further category is that of speech enjoying limited protection, such as advertising and ‘trade talk’. In the United States, Holocaust denial is not punishable. The world-view subscribed to by most American jurists is radically different from European models, and believes public speech to be the official arena for unbiased competition

between various communities. Prohibition of hate speech is thus irreconcilable with the 'arena of ideas', where, however, material inequalities are of no import. An examination of the British model is important because its approach differs from that of both the United States and Europe. There being no uniform, written constitution, the judgements of courts and unwritten custom law provide the protection for rights to freedom, so freedom of speech is a negative right, which can be referred to as an exception compared to other laws. Legislation considers the hate aroused, or capable of being aroused in others as a central element, and attempts to limit it; it makes no attempt to protect communities, and their being offended is irrelevant. In the United Kingdom, Holocaust denial is not punishable, but those who question systematic genocide meet with utter rejection in every forum.
In surveying the debate surrounding the Hungarian legislation, and presenting the arguments for and against, the research has attempted to show the handling of hate speech as less of an insoluble task. In Hungarian public life, the 'mistaken' nature of the legislation of freedom of speech has been a recurrent topic for two decades now; contrary to the general circumstances in Hungary and the lack of public speech, it follows the American model. Those who support the use of penal power argue with reference to the deterrent power of punishment and the declaration of the moral judgement of the state. According to critics, hate speech is spreading at a hitherto unseen rate; it flourishes, and the enemies of democracy use the rights guaranteed by democracy as a protective shield. Many analysts believe that the picture of the future envisaged by the first decision of the Constitutional Court has not been borne out by reality. Meanwhile, the Hungarian Constitutional Court has interpreted the freedom of expression of opinion in the widest possible terms, disregarding the actual political background. By collecting constructive criticisms, the research has aimed to steer the appropriate solution to freedom of expression of opinion onto the right path. Rules of penal law currently in force can be used powerfully against discriminatory speech, if they are used consistently and actively.

Géza Finszter:

Forensic methods in prosecuting and investigating crimes of bribery (Penal Code Chapter XV Title VII). Law enforcement tools for prevention

Corruption comes into the category of crimes difficult to investigate and difficult to prove. The characteristics causing obstruction to the investigation of bribery cases arise from the nature of the crime, so they must also be expected to continue in the long-term future. One such obstacle is that they have no natural person victim, and the opportunities for material proof are very restricted. Other factors hindering investigation however may change with the strengthening of democratic institutions and civil society. For example, transparency makes these breaches of law recognisable to third parties, as well. The moral rejection of corruption may also improve the chances of successful investigation.
With stricter and more expert state supervision of public administration and market circumstances, it would be possible to detect the risk of bribery in time in such a way that there would be no need for penal action. If, however, there are reasonable grounds to suspect a crime, then the inquiry reports of the supervising authorities can give a basis for the effectiveness of the investigation.
Proving cases of bribery is made more difficult by the current regulations on covert surveillance. This can be overcome by changing legislation and modernising the organizations.
On the basis of experience, it is our view that it is worth considering regulating covert investigation in the procedural code, which would in fact put all surveillance under the supervision of the prosecutors. In making it open, the prosecutor's right of disposal should be

made exclusive. This could complete an examination of the authenticity of evidence acquired in a covert manner, even by the defence, during a trial. The scope of competence of homeland security should be made unambiguous so that investigation with the purpose of criminal prosecution can only be conducted by an investigative authority.

III. RESEARCH PROJECTS INCLUDED IN THE WORK SCHEDULE OF THE DEPARTMENT

Ágnes Solt:

Embedding the study 'Analysing the mentality of the inhabitants of segregated estates' in the context of specialist literature

This research sought the answers to questions posed in the field study completed in 2009, 'Life beyond hope'. The theoretical framework for the methodology used in the earlier study was given by 'Grounded Theory'. In this method, the theory-to-be is rooted in the data examined, and takes shape during the continuous and systematic analysis of the data. The earlier research thus made claims and assumptions only within very a broad interpretative framework, based on the idea that the theory would form during the research process, through the continuous interaction of analysis and data collection.
The task of this year's research was then to pit previous research findings against the claims of the literature, and to insert them into the series of studies conducted thus far, in order that they might together give a more complete, objective picture of the inhabitants of Roma estates. This year, the research field study following the empirical research was placed into context in the specialist literature and written up as a study.
To summarise, after comparing the findings of the research conducted with other Hungarian and international research findings, the final conclusion of the study is that the survival strategies and mentality of the minority categorized by society as undesirable, living in deep poverty, do not derive from Gypsy culture (or any branch thereof) and cannot even partly be traced back to it.

Dávid Vig:

Corruption in the local government sector

In the nigh two years since 1 January 2009, more than 1300 articles related to corruption in local government have appeared on the internet or in the internet versions of daily papers. Corruption in local government is an existing problem according to Hungarian public opinion, organizations in the field, leaders of state, those with the competency to audit and inspect, and the organs of criminal justice. In 2007 Gallup demonstrated that while nine-tenths of the public considered corruption to be a significant or very significant problem, one-tenth (9%) had experienced corruption in the course of the previous year, the second most frequently mentioned type being local government corruption.
The research report analyses and presents the most important Hungarian research related to the extent of local government corruption, and also deals with the risk analysis of the local government sector. Regarding the forms that local government corruption takes – on the basis of the literature and interviews – corruption most frequently occurs in local government public procurement, for instance in the call for tenders, in their evaluation and in the

preparation of the decision, in legal remedy, in the completion and in certifying the completion. The public procurement procedure (not only in regard to local governments) is in some respects over-regulated, but also contains several loopholes. The vast quantity of legislative matter is subject to frequent modification and amendments: the Act on public procurement which entered into force in 2004 has been amended about thirty times.
The establishment of social, educational, sport and cultural institutions preparing to participate in other procurement and PPP constructions may also be cause for concern. The management of real estate by local government (sale or renting out below the market price, purchase and renting above the market price) is also an exposed area. A special risk of corruption occurs in the reclassification of local government plots (inclusion in urban area etc.). Studies on the anomalies present in building administration were published even before the regime change of 1989. We have information on the structured practice of corruption during planning permission and official inspections. The privatisation of local government public services market also raises corruption-related research questions.
An examination of the integrity of the local government sector and an examination of the danger of the risks and the probability of their occurrence would also contribute considerably to a better understanding of the corruption structure of the sector. Based on the analyses of Transparency International and the Magyar Közigazgatási Intézet (Hungarian Public Administration Institute), with the aid of the depth interviews made during the study, the research reviews the corruption risks and shortcomings in integrity in local government administration and services. This research, which also aims to disclose corrupt practices, is supplemented with the findings from the interviews conducted with experts in public administration and the world of business.

Tünde Barabás – Szandra Windt:

Students of jurisprudence on crime and restorative justice. Empirical investigation

The report presents the findings of a longitudinal study. Between 2005 and 2009 we conducted a trend study among students at the ELTE Faculty of Law, in which the students completed questionnaires containing questions related to crime, punishment and mediation. This was supplemented by control sample questionnaires completed in 2009 at the Faculty of Law at the Károli Gáspár University of the Reformed Church.
The evaluation of the questionnaires answered, 408 in total, confirmed our hypotheses in several respects, but refuted them in certain issues. Contrary to our assumption that law students have far more information on crime than the general public, it transpired that law students are not at all aware of the extent of crime, its dynamics or structure (this has not really changed over the years). Although every year they replied tendentiously that crime is on the increase, in general they underestimated the number of crimes committed by a large margin. This was equally true of the control sample. They also misjudged the proportion of juvenile/adult offenders, but were more or less aware of the structure of crime in Hungary and the frequency of application of various sentences. At the same time here too they performed poorly when giving the figures, even a ball-park figure. In relation to mediation, our hypothesis (that they have information on this relatively new possibility as a result of their training) seemed to be confirmed. However they primarily gained this information not in the teaching of criminology, but in lectures on criminal justice and criminal procedure. Compared to the previous answers, their answers on mediation were more positive: even respondents from before 2007 had heard of mediation. Using their own words, they described the essence

of mediation with great inaccuracies, and this showed no improvement in later questionnaires. Although they are not necessarily fully acquainted with the meaning, they trust in this legal institution; however, they would not train to be mediators.
Finally an interesting difference in approach was apparent between the law students with regard to the goal and results of punishments: students from the Károli Gáspár Reformed Church University are far more inclined to see sentences as punitive. It is they who see the longest possible prison sentence, or even graver forms of punishment, as better and more effective, while in the answers of the ELTE students, prison appears as a necessary evil.

IV. RESEARCH PROJECTS OUTSIDE THE WORK PLAN

Ildikó Ritter:

The supply market for amphetamines in Hungary

This research, carried out with funding from the Ministry of Social Affairs and Labour, was to explore the operational structure of the supply market for amphetamines in Hungary, on the basis of direct and indirect indicators. Investigation of the indicators characteristic of the supply side was based on the following segments: (1) seizures made in the period under examination; (2) criminal procedures in the period under examination; (3) activity of producers, investors and buyers in Hungary; (4) the organization and structure of amphetamine distribution.
The material for the study was made up partly of criminal statistics and drug seizures data and partly from conversations with experts from the National and Budapest Police Force, prosecutors and judges active in drug-related cases for at least three years, and interviews with offenders definitively sentenced for trading/distributing amphetamines.
Even the drug market is governed by the laws of supply and demand: they affect the price, and in many cases determine the quality and composition of the 'product'. One developing channel for advertising and sales is now the internet, but sale through 'distributors' is still more widespread. Here and one finds innovation in producing, trading and distributing the products, and there is development in P+R. Compared to many other branches of industry, there is fast and effective product development with considerable capital investment and a broad network of experts, the main aim of which is to manufacture and sell cheaply-produced stimulants, deliriants and psychotropics with considerable profit compared to their manufacturing and distribution costs.
The study explored the changes in the operating structure of the amphetamine supply market in Hungary on the basis of direct and indirect indicators. Through a comparison the findings of this research with the findings of the research carried out in the NIC in 2001, it is now possible to analyse the operating mechanisms in the supply market.

Judit Szabó:

The past and present of criminal psychology in Hungary, with special regard to criminological psychology

The aim of the research is to present the changes and developments in criminal psychology in Hungary in the light of the social changes generated by historical events. The skeleton of the survey is provided by a brief presentation of the most important and most characteristic

criminal psychology works of each period. Alongside the most important monographs, the research surveyed many articles and studies, from the beginning of the twentieth century to the current day.

Szilvia Gyurkó – Katalin Parti – György Virág:

GERN – Sexual deviance as signal crime

In spring 2010 preparation began on the international research 'GERN Sexual deviance as signal crime', led by the Institut für Sicherheits- und Präventionsforschung (University of Hamburg). The research topic is the social, political and crime prevention approach to the imposition of sanctions for sexual abuse, and the main points of legislative and judicial practice made in the field of sexual abuse and the changes therein following the regime change of 1989. The aim of the planned research is to compare various European trends and to establish a prognosis on what can be expected in the fields of legislation and jurisdiction. This prognosis can be utilised in drawing up criminal policy and crime prevention concepts. The planned research covers topics such as the media, legislative and political interpretations of sex crimes and their cultural-sociological evolution.
The preparatory phase of the research has been completed, but the research has run aground because the funds necessary to carry out the empirical research are at present not forthcoming. For this reason, the research does not feature among the studies continuing into 2011. If funds become available for the study, the research will be accounted for as a study outside the work plan.

Dávid Vig:

Complaint mechanisms and control over penal enforcement in Eastern European and in the countries of the CIS

Based on an approach from the Hungarian Helsinki Committee with regard to research at the institute carried out in 2009, we participated in an international comparative study covering Eastern Europe and the former Soviet republics. The research included 18 countries (Albania, Armenia, Azerbaijan, Bulgaria, the Czech Republic, Hungary, Kazakhstan, Kyrgyzstan, Lithuania, Macedonia, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Tajikistan and Ukraine). The questionnaires filled in by experts in each country were evaluated with assistance of the staff of the Hungarian Helsinki Committee.
The research surveyed the opinions in the literature on complaint mechanisms, the relevant European rules and expectations, and also examined the complaint mechanisms of the above countries in penal enforcement, the situational observance of the law by prosecutors, review of the courts, the framework and practice of legal protection by the ombudsman, and also covered the legal protection work performed by civil organisations in the field of penal enforcement. The findings of the research will be published in the report of the Helsinki Committee, and also featured at an international conference.