



# Role of research in criminal justice policy making

## Call for establishing of specialized and independent research institution

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## Summary

Research, evaluation and statistics are the key tools for gaining of new knowledge in the process of public policy making. As the criminal justice system of one country is a public policy matter, sound policies and practices for acquiring of necessary knowledge for evidence-based policy making should be developed. Policies made without prior research are based on speculation and they often prove to be ineffective. This is particularly evident in the field of criminal justice and crime prevention, where ineffective policies lead to crime rise, public dissatisfaction, and general feeling of insecurity. It is therefore assumed that more knowledge about crime, the crime construct, offenders and victims provide for better policies on ways to fight crime. This policy research paper explores the existing mechanisms for criminal justice research, evaluation and statistics in Bosnia and Herzegovina, and recommends options for improvement.

Criminal justice research encompasses abundance of concepts and methods. It is often linked with criminological research and the terms are used interchangeably throughout this paper. According to definitions provided in literature, criminology is "the study of crime, or attempts to control it, and attitudes to it." As such, criminology is interested in the politics of law and order, crime data, violent, white-collar, professional and organized crime, crime prevention, policing, pre-trial processes, sentencing policies, probation and community sanctions, prisons, race, gender and mental disorder and crime, as well as victims. In order to reach comprehensive and reliable findings, criminological research combines quantitative and qualitative methods. Quantitative research is interested in the numbers of crimes, numbers of criminals, and numbers of victims. These figures can be results of official statistics or alternative sources, which provide a full picture of the state of crime. Qualitative research uses statistical information as a resource, but goes further into the nature and causes of crime and evaluation of criminal justice practicalities. The exploitation of both quantitative and qualitative criminological research, as "applied" instead of "academic" research, in the public policy domain has grown over the previous period, as demonstrated in the two case studies (Sweden and Great Britain) in this paper.

The criminal justice system in Bosnia and Herzegovina is marked by an absence of standing, coordinated and comprehensive research, evaluation and statistics mechanisms and capacities. The reasons lie in the failure of authorities to renew the pre-war research and development funds, which is illustrated by the fact that only around 0.05 per cent of Bosnian GDP is invested in science and research. The examples from Great Britain demonstrate how different governments prioritise research, or not, which could provide some indication for the reasons behind the low prominence of research in Bosnia and Herzegovina.

Despite the fact that Bosnia and Herzegovina does not have a standing, coordinated and comprehensive criminal justice research mechanism, which would provide a clear picture of the crime problems that the country is facing and evaluate effectiveness of criminal justice mechanisms in reduction of crime, some capacities do exist in Bosnian justice and security institutions. These institutions are the police, prosecutors' offices and courts, prisons, the ministries of justice, the High Judicial and Prosecutorial Council, the Ministry of Security, and one of the statistics bureaux. Every one of these institutions registers data about their work and share them with the authorities and the wider public as part of certain procedures. However, the registration and collection of information have certain flaws in terms of comprehensiveness, reliability, as well as their further use for analysis, research, evaluation, training, raising of public awareness, and finally policy making. For example, the police do not have clear counting rules for crime, the official statistics are not checked against alternative sources, such as victimization and self-report surveys, and the existing information is rarely used for planning and changes of policies and practices. Furthermore, information collected in the judicial part of the criminal justice system is not detailed enough and does not provide sufficient information for meaningful qualitative analysis and evaluation of trends and practices, for example investigation, or sentencing practices, for purposes of policy change proposals. This also leads to formation of poor public opinion about work of the criminal justice system in Bosnia and Herzegovina, as the knowledge about practicalities of this system is generally low. The information collected by prisons is limited to basics only,



while attempts of qualitative studies rarely reach the policy makers. The overall problem is the lack of compilation of information coming from different sources in the criminal justice system for purposes of comparison, analysis, evaluation and making of policy recommendations. Still, even if one statistics bureau collects and publishes a wide range of information on work of the criminal justice system, the quantitative information is rarely analysed. It can be concluded that the Ministry of Security has come the closest to collecting information from a wide range of sources in the criminal justice field and using them for periodical thematic analysis of the security situation and security threats in the country, but the lack of capacities and powers prevents more thorough research and evaluation. The overall lack of research leads to a lack of comprehensive crime prevention programmes and detailed planning of operational activities of all segments of the criminal justice chain.

The European standards in the field of criminal justice research and crime prevention, namely the standards set by the Council of Europe and the European Union, are additional argument in favour of setting up of standing, coordinated and comprehensive mechanisms for criminal justice research, evaluation and statistics in Bosnia and Herzegovina, a country striving to become a fully-fledged member of the European family. Namely, one recommendation of the Council of Europe Committee for Ministers says that “crime-prevention measures have a better chance of succeeding if based on thorough knowledge of the problem they are intended to resolve, acquired through research in the relevant field.”

There are a number of qualities that criminal justice research should have in order to serve its purpose in the most effective and efficient way. These qualities are knowledge, independence and transparency of research, effectiveness through purposeful use, availability and visibility, and efficiency in terms of cost-effectiveness. There are, however, a couple of risks in attempts to attain these qualities - political feasibility and cost.

Two policy options for establishing of standing, coordinated and comprehensive mechanisms for research, evaluation and statistics in the field of criminal justice in Bosnia and Herzegovina are outlined in this paper. One option is expansion of already existing capacities in the Bosnian Ministry of Security. When checked against the mentioned qualities of criminal justice research, this option does not seem to meet the independence, transparency, visibility and availability criteria, although the political feasibility and cost risks may seem to be very low.

On the other hand, the second policy option implies establishment of a separate expert body for criminal justice research, evaluation and statistics, in form of an “independent administration organization” in line with the existing legislation on government bodies. This option is devised on the basis of combination of best practices from Swedish and British models explored in case studies in this paper. The new institution would be established by the government with state-wide jurisdiction, but guaranteed independence as a research institution by special legislation and civil service procedures. This institution would have the conditions for production of knowledge with a variety of experts through inter-disciplinary qualitative research in-house and commissioned from academia and consultants, and official statistics combined with alternative sources. It would also be well placed, as an independent institution, to carry out evaluation of policies and practices in the criminal justice system. Products of this institution could be made widely available to policy-makers, criminal justice professionals, non-governmental organizations, educational institutions, media and the wider public. This would contribute to effective dissemination of information, feeding of research findings into the policy-making process, training, and raising of public confidence in and support for the criminal justice system. Endorsement of this option would require a specifically allocated budget that should guarantee reliability, regularity and comprehensiveness of research. Considering risks, this option is less politically and financially feasible, should the authorities decide to preserve the current low prioritisation of research in the Bosnian society in general.

Still, despite the risks outlined, the qualities of this policy option prevail. For this reason, further exploring of steps for establishment of an independent criminal justice research institution and its main features are recommended.

## 1. Role of research, evaluation and statistics in criminal justice policy-making

Research, evaluation and statistics is a term which will be used throughout this paper with the aim to denote a set of continuous activities conducted for purposes of access to quantitative and qualitative information, analysis of this information, and feeding of information into the process of innovation, education and training, information dissemination, or policy-making. The key result of every research, evaluation and statistics activity is new knowledge, which sometimes leads to innovation, change, or simply presentation of new information for purposes of raising of awareness. The specific field of interest of this paper is the field of criminal justice in Bosnia and Herzegovina, and existing research, evaluation and statistics mechanisms in this particular field, or lack thereof. Since criminal justice is a public policy matter, research, evaluation and statistics, as mechanisms providing new knowledge, can be seen as essential in creation of new, or evaluation and change of old policies, or practices, or raising of awareness about policies and practices in general.

***The current criminal justice system in Bosnia and Herzegovina is marked by an absence of meaningful research, evaluation and statistics mechanisms and capacities, as well as a lack of awareness of the importance of these tools in this and most other segments of the Bosnian society.*** Namely, Bosnia and Herzegovina does not have standing, coordinated, or comprehensive research, evaluation and statistics mechanisms in the field of criminal justice. The problem can be viewed from two aspects - causes of the problem and the extent of the problem, both of which lead to a conclusion about the necessity of establishment of these mechanisms and capacities in the particular field of criminal justice, and consequently crime prevention in Bosnia and Herzegovina. ***It is assumed that more knowledge about crime, the crime construct, offenders and victims provide for better policies on ways to fight crime, as it can be assumed that better and more information in general lead to better and more informed, evidence-based policies and practices.***<sup>1</sup>

<sup>1</sup> Marx's irony about criminals contributing to economic, social and cultural development of capitalist societies, by creating the need for criminal law, law professors, criminal justice and criminal justice professional, locksmiths, as "would locks have reached their present state of excellence had there been no thieves?", comes in very appropriate in this sense, but particularly when it comes to studying of crime: "And hasn't the Tree of Sin been at the same time the Tree of Knowledge ever since the time of Adam?" Tierney, J. (2006). *Criminology. Theory and Context*. Pearson/Longman, pp. 48-9.

However, saying that Bosnia and Herzegovina does not have established research, evaluation and statistics mechanisms does not mean that its current criminal justice polices are bad, but it is certain that they can be developed much further and improved immensely for the purpose of achieving a number of goals - primarily, crime prevention, but also speedy and fair justice, and improvement of other criminal justice practicalities. The two aspects of the problem of lack of comprehensive criminal justice research, evaluation and statistics mechanisms in Bosnia and Herzegovina (the cause and extent) will be analysed further through the prism of the current framework for the criminal justice field in the context of research, evaluation and statistics, and the usage of this framework in the process of criminal justice policy making. The intent is to identify the existing mechanisms, outline their advantages and deficiencies, compare them with research, evaluation and statistics practices in other countries, and draw conclusions on what kind of research, evaluation and statistics mechanisms should be in place in Bosnia and Herzegovina in order to ensure well-informed policy making.

<sup>2</sup> The British model of research, evaluation and statistics in the criminal justice system encompasses only England and Wales, while Scotland and Northern Ireland have their own institutions following the principles of devolution of government in the United Kingdom.



tics institutions in the criminal justice field, on the basis of which conclusions about possible policy options for Bosnia and Herzegovina are drawn and presented. The overall research for this policy paper also contributed to identification of the preferred policy option and a set of recommendations for its implementation.

## 2. What is criminal justice research?

Before explaining how and why is the criminal justice field in Bosnia and Herzegovina marked by an absence of coordinated and comprehensive research, evaluation and statistics mechanisms and capacities in general, as well as a lack of awareness of the importance of these capacities in this and most other segments of the Bosnian society, and how this affects the Bosnian society, it is important to define the main features of criminal justice or criminological research.<sup>3</sup>

*A Dictionary of Criminology* defines criminology as “The study of crime, or attempts to control it, and attitudes to it”.<sup>4</sup> Noaks and Wincup (2007) make a distinction between “common sense knowledge [of virtually everyone] of crime, and correspondingly many ideas about the causes of crime and the best ways to tackle it”, and criminologists, who “subject their ideas to rigorous enquiry by conducting either quantitative or qualitative research”.<sup>5</sup> *The Oxford Handbook of Criminology* indicates that criminology is interested in a variety of issues, such as: **the politics of law and order, crime data, violent, white-collar, professional and organized crime, crime prevention, policing, pre-trial processes, sentencing policies, probation and community sanctions, prisons, race, gender and mental disorder and crime, as well as victims**.<sup>6</sup> This further indicates that criminological research is interested in a wide range of subjects, it requires and encompasses “a range of disciplines”, it has “competing focuses”, “competing agenda”, “rival theories”, “varieties of methodologies”, and “political orientations”.<sup>7</sup>

For this reason, criminological research should comprise a combination of quantitative and qualitative research. Namely, it has been shown that the “triangulation”<sup>8</sup> method, commonly used in many fields of social research, has many advantages. In the concrete case of criminal justice research, the use of “methodological pluralism”<sup>9</sup> would entail combination of quantitative and qualitative research. More concretely, the most common methods in quantitative criminological research aspire to find out the following:

1. How much crime?
2. How many criminals?
3. How many victims?<sup>10</sup>

This is achieved by application of the following most commonly used quantitative research methods:

1. Official crime statistics
2. Victim surveys
3. Self-report studies
4. Police and court records<sup>11</sup>
5. Other sources, e.g. cause of death data, hospital admissions, etc.<sup>12</sup>

<sup>3</sup> The term “criminological” research can also be used to describe the concept of research of crime and reaction to crime. The terms are used interchangeably throughout this research paper, with caution for the readers that the former term could denote a broader notion, and as such include other types of research, apart from criminological research, while the latter could sometimes be more attributed to academic research specifically, although it will be shown that this does not necessarily have to be its only quality.

<sup>4</sup> Tierney, pp. 11.

<sup>5</sup> Noaks, L. and Wincup, E. (2007). *Criminological Research. Understanding Qualitative Methods*. Sage Publications, p. 3.

<sup>6</sup> Tierney, pp. 11.

<sup>7</sup> Tierney, pp. 12.

<sup>8</sup> Noaks and Wincup, p. 8.

<sup>9</sup> Noaks and Wincup, pp. 10.

<sup>10</sup> Tierney, pp. 25.

<sup>11</sup> Tierney, pp. 15-7.

<sup>12</sup> Westfelt, L. and Estrada, F. (2005). International Crime Trends: Sources of Comparative Crime Data and Post-War Trends in Western Europe. In Sheptycki, J. and Wardak, A. (Eds), *Transnational and Comparative Criminology* (19-48). Glasshouse Press.

However, as said above, only in combination with qualitative criminological research, most notably sociological, situational criminological research, can quantitative research findings provide a full picture of the situation as regards crime and main challenges and problems in the criminal justice field, provide evaluation of impact of current practices, and guidance for further action. As Noaks and Wincup (2007) argue, quantitative research is a resource for qualitative research, while other sources of qualitative research can be some of the following: interviews with politicians, professionals, beneficiaries or victims, case studies, media reports, literature, documentary research, etc. **It is believed that the combination of both methods contributes to discovering of the so-called “dark figures”, i.e. those that do not appear in official statistics, to providing a social insight into the positions of offenders, victims or criminal justice professionals, and finally to the process of development of policies.**<sup>13</sup>

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<sup>13</sup> Noaks and Wincup, pp. 11-7.

For purposes of this policy research, a distinction, but also a link, should be made between criminology as an academic discipline and criminological research used as a research, evaluation and statistics mechanism for purposes of policy-making, development, training, and raising of public awareness. The distinction is self-explanatory as the one between “theoretical” and “applied” in the context of application to the criminal justice field and wider, but this distinction should not be overestimated, as links between the two can be much closer, as demonstrated below in the two case studies looking at the criminal justice research mechanisms in Sweden and England and Wales, where research by criminological academia is widely and specifically used not only for making of policies, but also their evaluation.<sup>14</sup> Both aspects of policy development are equally important in responsible and accountable governance, which is why in any research, evaluation and statistics mechanism, conditions for both policy development and evaluation should be established. **The situation in the field of criminal justice research, evaluation and statistics in Bosnia and Herzegovina is checked against these particular theoretical and practical examples of how this type of knowledge on “practicalities” of justice and security contributes to Bosnian policy making in the field of criminal justice.**

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<sup>14</sup> British criminological literature suggests that there has been a “growth of policy-oriented research” among British criminologists in the 1980s and 1990s. In this context, Tierney (2006) notes narrowing down of research focus and concentration on “**elements of the criminal justice system and the practicalities of crime control: the police, prisons, courts, probation and community sanctions, situational crime control, and complementary community-based initiatives such as neighbourhood watch and police-public consultation**”. From Tierney, pp. 228-9.





### 3. Current state of criminal justice research in Bosnia and Herzegovina

In order to understand the background of the current situation in the field of criminal justice and crime prevention research, evaluation and statistics, the processes prior to the criminal justice reform in Bosnia and Herzegovina should be examined. One example of the state of research, evaluation and statistics in the specific field of judiciary is self-explanatory. Namely, according to the *Final Report of the Independent Judicial Commission* (IJC) from November 2004, prior to the beginning of the overall judicial reform in Bosnia and Herzegovina, which had been made a priority by the international community in December 1998, “credible and comprehensive information on the judiciary in BiH that could have served as the foundation for a judicial reform strategy was lacking.”<sup>15</sup> The reason for this was weak capacity of relevant public institutions, primarily the ministries of justice, in the first years after the end of the war in Bosnia and Herzegovina, and generally a lack of research, evaluation and statistics awareness and mechanisms. It should be noted, however, that this had still been the time of “peace-building”, while the “state-building” efforts of the international community and local actors in Bosnia and Herzegovina, which could have been imagined as those comprising efforts to introduce research, evaluation and statistics institutions, among other institutions of the state, were still to follow. The country stricken by war and breaking away from its socialist past through the transition process had lacked even the most basic research mechanisms that could conduct research in order to map out the main problems of the current legislative and institutional set-up, evaluate practices, and consequently provide evidence for the need for policy change and policy recommendations.

This situation was a result not only of destroyed capacities, but also internal divisions within the country. Namely, it is not only the war that should be blamed for the disappearance of previous research capacities, i.e. previous “research institutes”, which are still associated with the socialist era, and formerly a strong Statistics Bureau. The social and economic transition, mostly affected by the new elites, did not give enough prominence to development of research, evaluation and statistics mechanisms in specific fields, criminal justice included, and the home-grown<sup>16</sup> awareness of importance of these mechanisms remains very low until the present day. This is illustrated by the fact that only around 0.05 per cent of the Bosnian GDP is currently invested in science and research.<sup>17</sup>

It is, however, not uncommon that the low prominence of research does not always have much to do with awareness, but with different governments’ priorities and policies. For example, the Conservative governments in Great Britain have been known for curbing the power of sectional interests (including the legal profession, trade unions, and “the betters” in most fields) and coming back to “the good old common sense again”<sup>18</sup> in the field of criminal justice, replacing the focus from criminological research and theoretical explanations of what, how and why went wrong with the focus on the common sense of political elites and the people, who “knew in their hearts” what was wrong and were practical about the “here and now” reality of crime and ways of dealing with it.<sup>19</sup> This is contrasted with the approach of Labour governments in Great Britain, which have insisted on “tough on crime, tough on the causes of crime”,<sup>20</sup> with the causes, naturally, having to be explored continuously as those lying in inequality and social injustice.<sup>21</sup> However, although there are not always clear lines between attitudes of different governments to the issue of criminal justice research, the nuances in approach should be borne in mind in identification of the problem related to the lack of research, evaluation and statistics mechanisms, as it is found in Bosnia and Herzegovina.

<sup>15</sup> Independent Judicial Commission. (2004). *Final Report of the Independent Judicial Commission*, p. 3

<sup>16</sup> The knowledge gap created by missing research, evaluation and statistics mechanisms in Bosnia and Herzegovina has been filled, to some extent, by international organizations and international projects, which stood at the forefront of all justice and security-related reforms in Bosnia and Herzegovina, but never pretended to want to replace necessary local capacities.

<sup>17</sup> “I will tell you that there is no research at our universities either. The pre-war funds for research and development have simply not been renewed. Before the war, 1.5 per cent of GDP had been invested in scientific research at universities and research and development projects in companies. Now, the investment is 30 times lower - 0.05 per cent!” Pekic, M. (Not dated). Brains and production sacrificed by politics. [Interview with Prof Bozidar Matic, President of the Academy of Arts and Sciences of Bosnia and Herzegovina]. *Europa Magazine*. Retrieved in Bosnian on April 3, 2008 from <http://www.europamagazine.info/bozidarmatic.htm>.

<sup>18</sup> “The election of a Thatcher government marked the endorsement of commonsense amateurism.” From Tierney, pp. 219.

<sup>19</sup> Tierney, pp. 220.

<sup>20</sup> Tierney, pp. 297.

<sup>21</sup> This was particularly prominent in the first mandate of the Labour government from 1997-2002 after a series of Conservative governments, when there had been greater focus on social research in the RDS Directorate of the Home Office, while lately, according to interviewees, the focus has shifted to statistics, and quick, short-term policy research and analysis on specific issues asked by the government for prompt reaction on some issues. In Sweden, on the other hand, despite the fact that some research institutions were closed down after coming into power of the centre-right government, the Swedish National Crime Prevention Council has been allocated the same resources as under the previous, long in power Social Democratic government.

## 3.1. Existing criminal justice research, evaluation and statistics mechanisms in Bosnia and Herzegovina

It has already been asserted that Bosnia and Herzegovina does not have a standing, coordinated and comprehensive criminal justice research mechanism, which would provide a clear picture of the crime problems that the country is facing and evaluate effectiveness of criminal justice mechanisms in reduction of crime. This, however, does not mean that some components of research, evaluation and statistics do not exist at all in this country's criminal justice system. Indeed, most of the existing judicial and security institutions in Bosnia and Herzegovina have the legal obligation to conduct regular registration of and reporting on their work, cases and statistics. Still, the existing mechanisms, as will be described below, do not fulfil the research, evaluation and statistics needs for production of fully meaningful, comprehensive and useful analysis, that can be used for development and change of policies, introduction of new policies, and evaluation of existing ones, training, and changes of public perceptions. Namely, every institution forming a constituent part of the criminal justice system in Bosnia and Herzegovina has at least a small unit, sometimes even consisting of only one person, in charge of registering and keeping of information about work of that particular institution. The type of information registered varies from one institution to another, so the police agencies would naturally collect and keep data that is different to that of the prosecutorial service, courts, and prisons. The overview of the amount and kind of information collected by individual institutions is presented below, as well as **some challenges of the existing system - the content of quantitative data, reliability of quantitative data, lack of analysis of quantitative data, and lack of qualitative research, and most importantly - lack of comprehensive and coordinated inter-agency efforts to examine thoroughly all information collected by isolated institutions in the criminal justice field as a whole and give recommendations for multi-faced policy change.**

### POLICE STATISTICS

The police in Bosnia and Herzegovina are seen to be collecting most of the information related to crime. This information is largely quantitative, comprising statistical information about the number and type of registered (reported or otherwise discovered) offences, number, age and sex of offenders, information about the amounts of narcotics seized, material damage caused by economic crime, most common objects of property crime, specific information about juvenile crime, and recidivism rates.<sup>22</sup> Since this information is collected by the ministries of interior and regularly presented to the governments and elected assemblies, it can be considered official crime statistics. The amount and type of information collected, however, varies from one police area to another, depending on priorities identified by the police and the most imminent problems.<sup>23</sup> This was not uncommon in some more developed democracies over the past decades either. For example, "prior to 1968, there was little consistency between police forces [of England and Wales] on how many offences were recorded when events of these kinds came to their notice [prior to introduction of the Counting Rules in 1967].<sup>24</sup> Still, following the three main interests of criminological research (see above), the sort of information recorded by the Bosnian police provides knowledge about the general trends of crime, as the focus of reporting is on the number of registered offences; it can also give us limited information about who commits most of the crime (adults/minors, men/women, repeated offenders, although not much more information than that); and very little information about victims of crimes. Consequently, the lack of more detailed information about offenders and victims sets limits to a series of possibilities otherwise offered by criminological research in identification of causes of crime, for purposes of planning of crime prevention.

<sup>22</sup> Sarajevo Canton Ministry of Interior. (2008). *Crime trends in 2007*. Not published.

<sup>23</sup> For example, it is stressed in the Sarajevo Canton police report for 2007 that property crime constitutes 74 per cent of all crime in the Canton, which has been subject to more detailed analysis in the police statistical report, emphasizing the number of most frequent objects of thefts and robberies, such as vehicles, housing objects, shops and offices. This police also pay special attention to juvenile offences, registering 694 offences committed by 303 minors, where four minors are suspected of having committed 335 acts altogether, mostly against property. Sarajevo Canton Ministry of Interior. (2008). *Crime trends in 2007*. Not published.

<sup>24</sup> Tierney, pp. 30.





Apart from the already mentioned issue of content of recorded data, an additional challenge has been identified through previous research on cooperation between police and prosecutors,<sup>25</sup> and this is determination by the police of what constitutes a criminal offence. For example, police tend to register all sorts of events in their registers, even if these events do not necessarily constitute criminal acts, but, for example, incidents caused by bad weather, etc.<sup>26</sup> On the other hand, some other acts that would in fact constitute criminal acts if ever considered by the prosecution service, do not get registered at all - for example, in cases of reported domestic violence, police frequently judge by themselves whether there are grounds for suspicion that domestic violence has in fact taken place, without informing the prosecutor.<sup>27</sup> This shows an inconsistency in practices of police and prosecutorial service at various levels in Bosnia and Herzegovina, and calls for establishment of official and clear rules and procedures for registering of police and prosecutorial statistical data.

The police also register information about the number of cleared-up offences. For example, the Sarajevo Canton Police report the clear-up rate of 58 per cent for the year 2007, of the total of 9,648 registered criminal acts,<sup>28</sup> while the FBiH Ministry of Interior, which collects statistics from 10 police areas, reports that the total number of registered offences is 25,315 and the clear-up rate 64.5 per cent.<sup>29</sup> This is compared with the Swedish clear-up rate of 34 per cent (2006)!<sup>30</sup> The discrepancy occurs due to different practices in considering what constitutes a cleared-up offence. According to the Swedish definition, "the concept of clearing-up crime has its roots in police practice and either involves a person having been tied to the offence as a suspect or the offence having been cleared by some other means."<sup>31</sup> On the other hand, Bosnian police consider an offence cleared-up when they turn the case over the prosecutor, which does not always mean that the suspect has been identified. Namely, the Sarajevo Cantonal Prosecutor's Office registers the total of 64,424 cases with unknown perpetrators (51,461 from previous years, and 12,963 registered in 2007).<sup>32</sup> This is further evidence for necessity of establishing clear standards, definitions and counting rules for official crime statistics. Under the current circumstances, the misleading statistical reporting can lead to forming of poor public opinion about work of individual institutions in the criminal justice system, by which one segment of the criminal justice chain is seen as doing a better job than the other, instead of all segments striving united for reaching of the same goal - fight against crime.

From discussions with interviewees from the policing sector of the criminal justice system in Bosnia and Herzegovina, it became evident that the statistical reports, which are produced every month and compiled every three, six, nine and 12 months, and which are regularly forwarded to relevant governments and elected assemblies, are not being exploited to their full potential either by policy makers or practitioners. Namely, it seems as if the police statistical reports are viewed as justification for the police's work before the governments only, and are not considered with serious dedication in the policy-making process, except in very extreme cases such as the recent juvenile murders in Sarajevo, which triggered some initiatives for policy change with regard to parental obligations and additional security measures in the city. However, surely the number of juvenile offenders from official police statistics could have been used as an indicator for forecasting of the security situation in Sarajevo and therefore more timely and adequate crime prevention measures, instead of reaction to two fatal incidents.

Indeed, examples from other countries demonstrate how statistical information can be used by criminal justice professionals for "mapping of terrain" by the police, proactive and reactive approach, evaluation of crime prevention activities, and even examining of court sentencing

<sup>25</sup> Buzakovic, B. and Karadjinovic, N. (2007). *Legal, institutional and organizational analysis of the cooperation between police and prosecutors in criminal investigations*. Produced for purposes of HJPC, not published.

<sup>26</sup> For example, the Sarajevo Canton Prosecutor's Office has been forwarded the total of 3,582 such cases in 2007, while 7,180 cases were carried over to the year 2007 from previous years. (Sarajevo Cantonal Prosecutor's Office. (2008). *Annual Report*. Not published.) The reasons for this are numerous - some of them being related to creation of a good image of police forces in the public, and some with the lack of confidence of police in the reformed criminal justice system where the prosecution has taken over the leading role in criminal investigations.

<sup>27</sup> Buzakovic, B. and Karadjinovic, N. (2007). *Legal, institutional and organizational analysis of the cooperation between police and prosecutors in criminal investigations*. Produced for purposes of HJPC, not published.

<sup>28</sup> Sarajevo Canton Ministry of Interior. (2008). *Crime trends in 2007*. Not published.

<sup>29</sup> FBiH Ministry of Interior. (2008). *Crime trends in 2007*. Retrieved on February 2, 2008, from [http://www.fup.gov.ba/joomla/index.php?option=com\\_content&task=view&id=11547&Itemid=69](http://www.fup.gov.ba/joomla/index.php?option=com_content&task=view&id=11547&Itemid=69)

<sup>30</sup> Swedish Crime Prevention Council. (2007). *Official Crime Statistics*. Retrieved on November 22, 2007, from [http://www.bra.se/extra/pod/?action=pod\\_show&id=15&module\\_instance=11](http://www.bra.se/extra/pod/?action=pod_show&id=15&module_instance=11)

<sup>31</sup> Ibid.

<sup>32</sup> Sarajevo Cantonal Prosecutor's Office. (2008). *Annual Report*. Not published.

<sup>33</sup> This information, for example, tells us about mugging (a term encompassing robbery and snatch theft) that the rate of robbery varies across the country from 12.6 robberies per 1,000 population in parts of London to minuscule rates in some rural areas, that half of all muggings take place on the street, and nearly a third in or around transport facilities (29%) such as railway and coach stations. Of the remainder, female victims also seem to be at risk in or around their own home where a quarter of muggings against women occurred. Half of muggings occur in the evening, between 6.00 pm and midnight, and a third in the afternoon. Only a minority occurred after midnight (5%) or in the morning (11%), 60 to 70 per cent occur outdoors and 5% of robberies occur in the home of the victim or suspect, the remaining 20 to 30 per cent occur indoors but not at home. The risk of being robbed outside is greater for males than for females, but the risk is the same for robberies in the home, male teenagers are most likely to become victims of mugging, while the robberies are mostly committed by male persons, a third of them of school age. Finally it is reported that in 1998, the total of 6,162 were convicted for mugging. Home Office Crime Reduction Toolkits website <http://www.crimereduction.homeoffice.gov.uk/toolkits/sc00.htm>, Retrieved on February 2, 2008.

<sup>34</sup> Victimization surveys can be conducted locally and nationally, with the former giving much more information about the process of victimization ("patterns of victimization, the impact of crime, the actual police response to both victim and offender, the public's requirements as to an ideal police response, and the public's notion of appropriate penalties for various offences"), and the latter "inevitably ... obscuring the way in which victimization is concentrated in different communities and among particular groups within these communities ...". From Tierney, pp. 36-7.

<sup>35</sup> For example, the British Crime Survey provides a better reflection of the extent of household and personal crime, but does not include crime against businesses, corporate and organized crime, and crime against those under the age of 16, while the Home Office's official crime statistics do include the latter.

<sup>36</sup> Tierney, pp. 16.

<sup>37</sup> Home Office. (2007). *Crime in England and Wales*. (Crown Copyright 2007 ISBN 1358-510X), p. 1.

<sup>38</sup> FBiH Ministry of Interior. (2007). *Crime trends in first nine months of 2007*. Retrieved on January 5, 2008 from [http://www.fup.gov.ba/joomla/index.php?option=com\\_content&task=view&id=11414&Itemid=69](http://www.fup.gov.ba/joomla/index.php?option=com_content&task=view&id=11414&Itemid=69).

<sup>39</sup> Studija o nasilju u porodici u Bosni i Hercegovini [Study on Domestic Violence in Bosnia and Herzegovina] (2005). Banja Luka, pp. 29.

practices and devising sentencing guidelines depending on the most dominant problems recorded. This can be achieved by regular issuance of official statistics combined with alternative sources of information, in easy-to-read and easy-to-search form, and distributed accordingly to criminal justice policy-makers and professionals for purposes of improvement of practices. For example, thanks to the Home Office statistics, the Crime Reduction initiative has a toolkit comprising, among other things: the Facts and Figures, Risk Profile, Victim Profile, Offender Profile for the most frequent crimes.<sup>33</sup> These findings require thorough recording of detailed statistical data, acquisition of data from other criminal justice institutions (for information about convictions), and analysis of this data for purposes of planning. However, according to interviews with police in Bosnia and Herzegovina, they do not have capacities for thorough analysis and subsequent long-term planning of operational work based on statistical information collected, and targeting of specific areas, groups of offenders, etc., for purposes of situational prevention of crime, or targeted problem-solving. Instead, most of the planning is reactive and is done almost on day-to-day basis, and the lack of proactive approach - both at individual and higher and wider level, is identified by police professionals themselves as a problem.

Additional limitations to forming a clear and reliable measure of the trends of crime are set by the lack of surveys that would complement official crime statistics. Most criminological literature, as well as the two case studies conducted for purposes of this research, recommends combination of official crime statistics and other sources of information on crime - most notably victimization surveys and self-report studies. These are alternative and supplementary sources of information often registering crime that has not been reported to the police, or has been reported to the police, but not considered as crime by the police. Victimization surveys place victims in the focus of research, by asking people (normally over the age of 16), by visiting households, if they have been victims of crime over the period matching the period of official statistics.<sup>34</sup> Self-report studies, on the other hand, are questionnaires asking people if they have committed any offence, focusing on the offenders. Both surveys have limitations,<sup>35</sup> but can, in any case, provide a greater insight into the real trends of crime, often producing the so-called "dark figure" of crime, but also much more information about how crime happens, by who, and against whom, which is the information that can be used in making of social and situational crime prevention programmes and policies.

It is assumed that results of these surveys would not regularly match the official crime statistics. For example, "it is frequently pointed out that the British Crime Surveys indicate that, because of lack of reporting by the public, only around one in four crimes committed are recorded in official statistics."<sup>36</sup> However, the British Home Office's Criminal Statistics for 2006/07, which are published together with the British Crime Survey, said that the two surveys "present a broadly similar picture of changes in crime since 2005/06".<sup>37</sup> In Bosnia and Herzegovina, the combination of official and alternative surveys would be particularly applicable to cases of domestic violence, but also assault, theft, and less serious, or personal crime. Namely, despite the fact that the police have registered an increase of almost 70 per cent in reported domestic violence,<sup>38</sup> non-governmental organizations helping victims of domestic violence consider this data to be only "the tip of the iceberg".<sup>39</sup> Still, despite obvious benefits of alternative quantitative surveys in finding more about profile of offenders and victims themselves, these have not been conducted in Bosnia and Herzegovina by any institution.



## JUDICIAL QUANTITATIVE AND QUALITATIVE INFORMATION

As a vital link in the criminal justice system of any country, the judiciary can be viewed as a very valuable source of information for criminological research aiming at policy change. The judiciary in Bosnia and Herzegovina consists of the prosecutorial service and the court system as practitioners, while its administration is supported by the ministries of justice<sup>40</sup> and the High Judicial and Prosecutorial Council (HJPC).<sup>41</sup> Bosnian prosecutors' offices and courts are legally obliged to keep record about their work and report to the ministries of justice and the HJPC.

### High Judicial and Prosecutorial Council

It is this Council that reports annually to the parliament and the public about work of the judiciary, but mostly relying on issues related to administration of the judiciary, and the number and structure of cases processed. The main purpose of this report is to outline activities of the HJPC on improvement of the judicial system organizational procedures and practices in Bosnia and Herzegovina, but also to describe the state of judiciary in Bosnia and Herzegovina on an annual basis. The focus is on independence and efficiency of the judiciary, while this institution does not examine practices of criminal justice institutions *per se*, or assess their effectiveness in crime reduction efforts. However, the HJPC reports provide some information about criminal justice practices that could be used, as part of more comprehensive research, for policy considerations by other relevant bodies. For example, the 2006 report demonstrated a very low number of economic crime investigations by prosecutors' offices, but also a pretty high number of plea agreements made between prosecutors and accused parties in criminal proceedings.<sup>42</sup> Although the HJPC aims at providing relevant information to trigger reaction of policy makers, this rarely happens, which sometimes even leaves the HJPC on the spot of resolving some big policy issues, for example, the policy analysis of the cooperation between police and prosecutors in criminal investigations for purposes of providing recommendations for policy change and eventual donor assistance.<sup>43</sup>

### Ministries of Justice

The ministries of justice, on the other hand, receive limited statistical information about work of courts only (prosecutors' offices do not report to the ministries of justice about their work), and have very limited policy analysis and policy making capacities. According to the *Functional Review of the Justice Sector in Bosnia and Herzegovina*, "there seems to be a general lack of understanding on the broad scope of the policy planning process. As noted, the work plans of the MoJs [ministries of justice, author's note] are simply a list of legislative measures to be undertaken within the forthcoming year and not a list of strategic objectives."<sup>44</sup> Authors of the Functional Review go on to say "as part of the problem, it is also apparent that there are no effective lines of communication with other ministries or institutions working in the justice sector, such as the police and social services, in order to develop a policy in respect of crime, for example."<sup>45</sup> The ministries are not organized along the lines of research, evaluation and policy planning. According to the Functional Review, "there are no capacities for comprehensive comparative research, or information gathering within BiH, although the lack of suitable research tools means that even if time were available, it is unlikely to be used for these purposes."<sup>46</sup>

A recently conducted analysis of the reporting mechanisms of justice institutions in Bosnia and Herzegovina, concluded that "Justice sector institutions, namely the MoJ, the BDJC [Brcko District Judicial Commission, author's note] and the HJPC, do produce reports that reflect progress in the sector against their legally stipulated mandates, albeit to varying degrees of

<sup>40</sup> There are 14 ministries of justice in Bosnia and Herzegovina due to country's constitutional arrangements.

<sup>41</sup> HJPC is in charge of appointing and disciplining judges and prosecutors, as well as a series of judicial administration issues.

<sup>42</sup> High Judicial and Prosecutorial Council. (2007). *Annual Report for 2006*, pp. 159-63.

<sup>43</sup> The question is, however, raised whether the HJPC, as a representative of the judiciary, should at all be a policy-making body, or the executor of policies made by the executive and the legislative branches of government on the basis of information collected and presented by the HJPC?

<sup>44</sup> Office of the Public Administration Reform Coordinator. (2005). *Functional Review of the Justice Sector in Bosnia and Herzegovina*. (Publication No. 8), pp. 39.

<sup>45</sup> *Ibid.*

<sup>46</sup> Office of the Public Administration Reform Coordinator. (2005). *Functional Review of the Justice Sector in Bosnia and Herzegovina*. (Publication No. 8), pp. 40.

<sup>47</sup> Suskic-Basic, S. (2007). Preliminary report on the reporting arrangements and performance monitoring of judicial institutions in Bosnia and Herzegovina. Produced for purposes of Canada-Balkans Judicial Reform Project, not published.

<sup>48</sup> Ibid.

<sup>49</sup> Article 13. of the BiH Ministry of Justice Rulebook (2006).

<sup>50</sup> BiH Ministry of Justice Rulebook (2006).

<sup>51</sup> For example, the Zenica-Doboj Cantonal Prosecutor's Office. Retrieved on February 22, 2008 from <http://www.tuzilastvozdok.gov.ba/presude.php>.

<sup>52</sup> Ibid.

regularity, detail and comprehensiveness. However, as with most if not all public administration bodies in BiH, reports and the data presented (or not) in them are not used effectively to support decision-making. The background to reform initiatives, i.e. what changes they aim to introduce, are not substantiated by detailed analysis, particularly with regard to legislative changes and introduction of new laws.<sup>47</sup> One of the reasons for this is limited confidence of ministries of justice in collecting of information stemming from the judiciary and the police, due to recent internationally-driven reform efforts aiming at strict separation of powers between the three branches of government, and the fear of being accused of breaching judicial independence. Consequently, the reporting of ministries of justice can be viewed as follows: "the issues reported are mostly individual events and in general these reports provide very little insight into the overarching strategic or policy issues. As a result the annual progress reports of the ministries contain no statistical or performance data, and the progress and issues mentioned are not illustrated or substantiated by data. The reports prepared by the ministries of justice make no reference to information or data collected by the HJPC as a way of substantiating issues raised or recommendations made."<sup>48</sup>

Some progress, however, was noted over the past years in the Ministry of Justice of Bosnia and Herzegovina. Namely, this Ministry has recently established a Strategic Planning Unit, with the following terms of reference: "The key functions of the Sector for Strategic Planning and Coordination are the following: creation, coordination and monitoring of implementation of policies, strategies and plans of the Ministry, conducting of research and analysis for providing information about policies and strategies of the Ministry, and planning and coordination of international bilateral and multilateral assistance."<sup>49</sup> This unit, however, is supposed to have three experts working on monitoring and identification of policy challenges and proposing of strategic direction for the sector of justice in Bosnia and Herzegovina (with one of the three experts being the head of the unit and therefore a manager).<sup>50</sup> It remains questionable whether this provides enough capacity for proper policy research and policy proposals on all aspects of the justice sector, and it is as unlikely that there would be enough capacity for specific research on the issues of criminal justice solely.

## **Prosecutorial data registration and reporting**

Although the police collect information about reported crimes and offenders, it is also the prosecutorial service in Bosnia and Herzegovina that is tasked with informing the public and relevant parliaments about "the crime situation" in their areas of responsibility. For this purpose, the prosecutors' offices collect information about the cases received, resolved and unresolved in a year, number of persons reported and suspected of criminal acts, number of indicted persons, different prosecutorial decisions about crimes, court conviction and acquittal rates with types, but not length of sentences (some offices publish excerpts from individual verdicts on their web pages<sup>51</sup>).<sup>52</sup> This type of information is considered to be very limited in terms of more in-depth research. An additional obstacle is the lack of proper software, which would allow entry of more comprehensive data about criminal acts, offenders (sex, age, family status, education, employment, etc.), and victims, and subsequently more meaningful search. At the moment, any detailed information about trends of crime, for example, the number of criminal acts committed by men aged 18-20 would have to be searched for manually through the prosecutorial logbooks, which makes any analysis very difficult. Other type of information is not readily available either, for example, information about prosecutorial practices, such as the plea bargaining, treatment of victims and witnesses, cooperation with police and other law enforcement agencies, which would be very useful for evaluation of prosecutorial poli-





cies and practices and consequent improvements. For example, a recent ad hoc study of the police-prosecutor relationship in Bosnia and Herzegovina, has resulted in recommendations for setting up of an information system which would provide prosecutors with direct access to criminal records of crime suspects and other exchange with the police.<sup>53</sup>

Better mechanisms for entry, keeping and processing of relevant data would not only help criminological examination of practicalities of criminal justice work done by the prosecutorial service, but would also help raise awareness of the public about major difficulties of this work in the time of post-reform adjustments. Namely, the prosecutorial service in Bosnia and Herzegovina has been heavily criticized for doing poor work in fight against crime. The criticism is mostly reflected in media reports, but can also come from the other two branches of government and the non-governmental sector due to unavailability of comprehensive information about prosecutorial work and perceptions formed on isolated media-reported events.<sup>54</sup> This type of public attitude, frequently referred to as “penal impatience”,<sup>55</sup> is not uncommon in other countries either.<sup>56</sup> This brings us back to the public awareness of the work of criminal justice institutions, which is in itself “a paradox”.<sup>57</sup> Namely, a Scottish survey in 2005 concluded that “interest in criminal justice is very high but knowledge levels [among the public] are very low.”<sup>58</sup> Since Bosnia and Herzegovina does not have standing mechanisms that would focus on examining of public perceptions of the criminal justice system and public confidence in this system (some NGOs have taken up this task from time to time, but with specific focus questions, for example, perception of corruption, not so much effectiveness of criminal justice institutions overall),<sup>59</sup> this is additional evidence for need for research in the criminal justice field - both for polling of the public opinion, but also for presentation of knowledge, acquired through comprehensive research, evaluation and statistics mechanisms, for raising of awareness of practicalities of work of criminal justice professionals and consequently greater public support for their work. More detailed knowledge about work of the judiciary in general, acquired through quantitative and qualitative research and evaluation, would also help the other two branches of government identify problems and act on them in form of policy change and greater support for improvement of work of the judiciary. So far, judiciary has acted in isolation from the two other branches of government, due to independence principles, instead of engaging in inter-branch dialogue for gaining financial and political support and achieving better results.

### Courts’ information and documentation

The courts in Bosnia and Herzegovina record very limited data about their work, and this information relates mostly to the number of received and resolved cases, as well as information about case backlog. Court reports also contain information about their verdicts in criminal cases - the number of acquitting and convicting verdicts, verdicts upon guilty pleas and plea agreements, number of cases where assets seizure was ordered, and the number of verdicts ordering fines. The quality of court work is also reported on, after being measured by the number of confirmed, overturned or changed verdicts.<sup>60</sup> Still, courts do not compile information about the type and length of sentences pronounced (except for some random court practice bulletins), nor is this information regularly analysed by any specific body for identification of sentencing trends, or perhaps issuance of sentencing guidelines, or even legislation change.<sup>61</sup>

<sup>53</sup> Buzakovic, B. and Karadjinovic, N. (2007). *Legal, institutional and organizational analysis of the cooperation between police and prosecutors in criminal investigations*. Produced for purposes of HJPC, not published.

<sup>54</sup> For example, a commentary by Banja Luka’s *Nezavisne novine* of 9 December 2006 questions reliability of statistical data presented in a prosecutor office’s report and asks the question of “how many big fish did in fact get entrapped in the justice net?”, implying that there were none. (These prosecutors.... (2006, December 9). *Nezavisne novine*.) The same paper, on 14 December 2007, says that “big cases [of the RS Special Prosecutor’s Office] have not even reached the court ... despite the fact that the RS Special Prosecutor’s Office has spent over two million marks since December 2006”, and that “eight years behind the bars is the highest prison sentence pronounced by the court following indictments issued by the RS Prosecutor’s Office, while most of the accused, those arrested in spectacular operations, ended up with a minimal sentence, or - at home.” Big cases have not even reached the courts. (2007, December 24). *Nezavisne novine*, p. 5.

<sup>55</sup> Roberts, Julian V. and Hough, M. (2005). *Understanding public attitudes to criminal justice*. Open University Press, pp. 15.

<sup>56</sup> Namely, a British Attitudes Survey asked people whether it was worse to convict an innocent person or let a guilty person go free, and 42 per cent of the public felt that letting a guilty person go was worse. This is contrasted with the opinion of lawyers, who thought that “the first kind of judicial error was far worse.” Roberts and Hough, pp. 14.

<sup>57</sup> Roberts and Hough, pp. 7.

<sup>58</sup> Roberts and Hough, pp. 7.

<sup>59</sup> For example, Transparency International. (2006). *National Integrity Study - Bosnia and Herzegovina 2007*, pp. 113-5.

<sup>60</sup> Sarajevo Cantonal Court. (2008). Report for 2007. Retrieved on April 3, 2008 from <http://www.ksuds.net/izvjestaji/2007.pdf>.

<sup>61</sup> The new criminal codes were also introduced as part of the overall judicial reform and they are taken to be the foundation of and source for creation of the sentencing policies by courts. The new criminal codes were drafted in line with international standards, according to drafters. According to direct participants in the legislative drafting, the law-making had not been preceded by research of the trends of crime, victimization levels and all societal problems that criminal legislation could address, or any other type of criminological research. Experts, however, agree that the criminal law is suitable for the Bosnian context and society, but this should not mean that the law should not be evaluated in line with social and crime developments and changing circumstances. For example, according to the Criminal Code of the Federation of Bosnia and Herzegovina, domestic violence can be punished by a fine (Article 222 of the FBiH Criminal Code)!

<sup>62</sup> According to research in western countries, the public mostly believe that the justice system is too lenient towards offenders (Roberts and Hough, pp. 13). However, the concern of some criminal justice professionals in Bosnia and Herzegovina tells us more about the nature and substance of the problem.

<sup>63</sup> This was assessed by Branko Peric, president of the HJPC. Quoted in No-one has been convicted with the highest sentence of 45 years. (2007, November 12). *Nezavisne novine*, p. 5. The position is further confirmed by Marinko Jurcevic, the Chief Prosecutor of the Prosecutor's Office of Bosnia and Herzegovina, who said that courts are more inclined to being on the lower end of the scale in pronouncing of sentences. Quoted in Close to 57 years of prison pronounced for criminal acts of money laundering. (2007, January 20). *Dnevni avaz. Sedmica supplement*, p. 2.

<sup>64</sup> Crime: Tuzla: Crime without Punishment, Award for rape of underage girl. (2006, October 16). *Start* [Sarajevo]. Retrieved on February 22, 2008 from <http://www.start-bih.info/Default.asp?broj=205&ID=89>.

<sup>65</sup> For example, in the report of the Zenica-Doboj Cantonal Prosecutor's Offices, it is stressed that 94.9 of all verdicts were in fact convicting verdicts, but 74.6 per cent of these verdicts constitute suspended sentences, 5.8 per cent are fines, while only 19.8 per cent prison sentences, of unidentified length, though. From Zenica-Doboj Cantonal Prosecutor's Office. (2008). *Annual Report for 2007*. (No. A-I-01/08), p. 4 and 7.

<sup>66</sup> Criminology knows various views about criminal responsibility. See Tierney, J. (2006). *Criminology. Theory and Context*. Pearson/Longman.

<sup>67</sup> According to the president of Zenica Municipal Court, the court has pronounced 311 prison sentences in the year 2007, while only 217 persons were put in prison to serve their sentences due to lack of prison capacities (others were sent home). From Fena. (2008, February 25). Convicts go home instead of prison. *Nezavisne novine*, p. 7. Also, the president of the High Judicial and Prosecutorial Council said recently that "the Sarajevo prison can receive only three convicts a month, which means that five years would be required for all convicts to be put behind the bars at this pace." From They said ... (2008, February 27). *Nezavisne novine*, p. 3.

<sup>68</sup> HJPC. Rulebook of the Judicial Documentation Centre. November 15, 2007.

<sup>69</sup> There is also the RS Statistics Bureau and the BiH Statistics Agency.

This leads to a lack of comprehensive knowledge about the courts' sentencing policies, and creation of perceptions of criminal justice professionals, as well as the public,<sup>62</sup> that the sentencing policies of Bosnian courts are "impermissibly low".<sup>63</sup> This is exemplified by the fact that three 20-year-olds can get one year of prison each for raping a mentally-incapacitated underage girl (the Start magazine said this was "an award for rape of an underage girl"),<sup>64</sup> and that "even terrorists get minimal sentences", according to *Nezavisne novine*. Also, a vast majority of convicting verdicts imply suspended sentences only.<sup>65</sup> It is unknown to what extent does the criminal law, or the awareness of judges, or some other political or ideological reasons,<sup>66</sup> contribute to such a lenient sentencing policy, but this is surely a matter that requires thorough and continuous analysis for identification of reasons for such policy, effectiveness of such policy, and eventually proposals for changes of policies. Still, other considerations need to be taken into account in this or related analysis - for example, the effect of introduction of tougher sentences on the increase of prison population and capacities of Bosnian prisons.<sup>67</sup> This shows that no effort in the criminal justice chain can be isolated from other constituent links forming the chain, and every research should be multi-faceted enough to consider as many aspects and implications of policy change as possible.

It is believed, however, that the Judicial Documentation Centre, which has recently been established within the High Judicial Prosecutorial Council, would help improve access to judicial decisions and court practices. It is envisaged that this centre establishes a database of all court decisions for collection of court decisions and distribution of court decisions, ensures printing of publications, administers and upgrades the Centre's library.<sup>68</sup> This database of court decisions is supposed to serve judges and prosecutors for harmonization of court practice in Bosnia and Herzegovina, but also as an informative and educational tool. The database is still in the testing phase, but the HJPC aims at establishing mechanisms for quick and detailed search. However, it has not been decided yet, who and under which conditions will be able to access this information apart from judges and prosecutors, or whether this resource will in the future be used for academic, scientific research, or simply research by policy makers for informed policy change in the field of crime prevention.

Moreover, the Ministry of Justice of Bosnia and Herzegovina has launched a project of establishing of a database of verdicts for the most serious criminal acts, which will be used for informing the government about the trends in this field. The information on all final verdicts in criminal cases is very important, despite the fact that it gives us only a small fraction of information about the actual crime, but it does provide a lot of information useful for training and upgrading purposes, and directly creates the public opinion about effectiveness of criminal justice.

### Statistics Bureaux on judiciary

Only the FBiH Statistics Bureau<sup>69</sup> is collecting information related to the judiciary, and has been collecting this information since 1998. This Statistics Bureau collects information from courts and prosecutors' offices, and not the police and prisons, which sets limits to the comprehensiveness of data to some extent. Collection of data is done through forms that courts and prosecutors' offices are expected to fill in and return monthly to the Statistics Bureau. This information is compiled by the Statistics Bureau and processed into an annual report on the judiciary. Not all information from the forms are included in the final annual report, but the information contained within the report is number of adult offenders reported by criminal act, sex, type of prosecutorial decision, length of criminal procedure, age, number of accused persons, number of convicted persons. Other detailed information can be used for more specific





analysis.<sup>70</sup> However, the problem with existing statistics is that they cannot be electronically analysed and compared by researchers outside the institution, while this institution does not generally provide analysis of collected information. However, it must be admitted that this is the only institution that compiles and publishes information about the type and length sentences pronounced by the FBiH courts, although it does not provide detailed information for which acts the sentences are pronounced, which means that the sentencing policies cannot be analysed fully with this resource either.

### **INFORMATION AND ANALYSIS IN PRISON SYSTEM**

Ministries of justices in Bosnia and Herzegovina, i.e. their departments for execution of criminal sanctions, are in charge of collecting information about prison population and situation in individual prisons. The information about prison population comprises the number of prisoners serving long sentences and other sentences, numbers of detainees, number of persons treated in mental health institutions, number of persons who are serving time instead of paying fines, and the breakdown in numbers of male and female prisoners. Apart from this general information, no other data about prison trends are collected by the ministries of justice. Information about individual prisoners is recorded in individual prisons, but this information is not compiled in any central body for purposes of research, analysis, recommendations for changes of policies and practices. Only major incidents succeed in grabbing the authorities' attention when it comes to prisons - prisoner escapes, human rights court's ruling against Bosnia and Herzegovina for keeping mentally-incapacitated offenders in a regular prison, juvenile offenders re-offending due to lack of proper correctional institutions, etc. It can be concluded that only some non-governmental<sup>71</sup> and international organizations and projects<sup>72</sup> dedicate time to carry out qualitative research and evaluation about the system for execution of criminal sanctions, while some prison professionals also strive to do and publish research about practicalities and successes of penological treatment in Bosnia and Herzegovina. For example, the FBiH Association of Penologists issues a professional magazine once a year, exploring institutional and organizational issues of the prison system in Bosnia and Herzegovina, effectiveness of penological practices, application of mechanisms such as conditional release, alternative sanctions, human rights principles, post-penal treatment, and other quantitative and qualitative analysis. Although this magazine is not widely known, nor used by policy-makers, it certainly represents a good example of a source of professional research and information about the main issues of the prison system in Bosnia and Herzegovina.<sup>73</sup> If expanded (in terms of more sources of information in cooperation with other criminal justice agencies, and more time dedicated specifically to research and evaluation) and made more visible, the magazine and its authors, prison professionals and penology professors, could be seen as a capacity for research, evaluation and statistics in the field of execution of criminal sanctions in Bosnia and Herzegovina, as part of a broader criminal justice research, evaluation and statistics mechanism.

### **ANALYSIS AND PLANNING IN MINISTRY OF SECURITY**

In accord with the Law on Ministries and Other Administration Bodies of Bosnia and Herzegovina, the Ministry of Security is tasked with "collection and use of data relevant for security of BiH."<sup>74</sup> For this purpose, a Sector for Analysis and Planning has been established in the Ministry of Security, with two units: one for Analysis and Assessment, and the other for Regulation and Planning. This sector is separated from the Information and Communication Technology Sector, and the two constitute parallel, but autonomous, sectors, among others in this Ministry. The Sector for Analysis and Planning is in charge of collection of information from police forces and the judiciary from the whole country about the security situation in Bosnia and Herzegovina,

<sup>70</sup> Other information collected comprises the classification of reported criminal act, date of reported criminal act, details about the injured party, entity reporting the crime, prosecutorial decision upon reporting of crime, details about detention of suspect (information of prosecutors' offices), details about offender (name, sex, date of birth, address, profession, employment, ethnicity, nationality, marital status, level of education), existence of accomplices, previous convictions, detention, details of criminal act (classification, injured parties, material damages, attempt to commit criminal act, date of act, place of act, continuation of criminal act, number of criminal acts), and details about court decision for this offender and the type of sentence pronounced for persons found guilty (courts' information); information about adult and juvenile offenders, with the addition of family details for juvenile offenders, and special information for economic offences. FBiH Statistics Bureau. (2007). Reported, accused, and convicted adults and minors, economic offences and disputes in the Federation of Bosnia and Herzegovina in 2006. Statistical Bulletin 101. (ISSN 1512-5106).

<sup>71</sup> For example the Helsinki Committee for Human Rights which periodically reviews the situation in Bosnian prisons. See <http://www.bh-hchr.org/izvjestaji.htm>.

<sup>72</sup> Committee for Prevention of Torture, UK DFID, Amnesty International, Council of Europe.

<sup>73</sup> For example, comparative research about introduction of alternative sanctions has resulted in recommendations for effectuation of such mechanisms in Bosnia and Herzegovina, and as the author says: "It is now the legislator's turn. We have acquired detailed information about experiences of a neighbouring country about the implementation and results, we have the legal basis for pronouncement of the community service sanction, but the implementing regulation is missing, for which cantonal ministries in FBiH are responsible, in order for us to be able to speak about results of application of alternative sanctions in our country too." From Vranj, V. (2004, November - December). Alternative Sanction of Community Service in the Republic of Croatia. *Penološka teorija i praksa*, pp. 35-45.

<sup>74</sup> Article 14 of the Law on Ministries and Other Administration Bodies of Bosnia and Herzegovina.

analysis of this information and presentation to the Council of Ministers and the Parliament of Bosnia and Herzegovina. The information is collected and analysed for purposes of assessment of the security situation and forecasting, as well as planning of measures of the government in line with the "Security Policy of Bosnia and Herzegovina".<sup>75</sup> The Sector regularly issues the Information about the Security Situation in Bosnia and Herzegovina, which informs the Council of Ministers and the Parliament about: protection of international borders, general crime situation, and the most serious criminal acts committed in Bosnia and Herzegovina over a certain period of time. Daily and periodical analyses of the security situation are being produced, while the Sector should also participate in legislative projects, if the unit for regulation and planning were staffed. However, with five analysts in total, the Sector cannot fully exploit its mandate, but selects topics of interests in yearly programmes and produces information about these specific security issues only. For example, in 2007, the topics selected were related to drug abuse, bank robberies, traffic safety and juvenile crime. The topics are selected by forecast on the basis of security information at hand, and the selection has so far proven to be justified.

A good example of research conducted by the Sector for Analysis and Planning is the Information about Illicit Production and Distribution of Psychotropic Substances in Bosnia and Herzegovina for the years 2005, 2006 and the first half of 2007.<sup>76</sup> This information was produced with help of information collected from the state law enforcement agencies, the Ministries of Interior of the two Bosnian entities and the Brcko District Police, the RS and FBiH ministries of justice, as well as ministries of health and social protection. The Ministry stresses the lack of a database into which all this information would be stored by relevant institutions, and emphasizes the fact that the information had to be sought individually from one institution to another. This obviously slows down the process of collection of information and research in general, which is considered to be a side-effect of separation of analysis and ICT sectors. Still, the produced information provides the number of police criminal reports for this particular criminal act, the number of adult and juvenile offenders, the amounts of narcotics seized, effects of organized, multi-national crime of drugs smuggling on Bosnia and Herzegovina, as well as production in the country itself. The information contains some information from prosecutors' offices and courts about sentences pronounced for persons accused of drug crime. It is, for example, stressed that "the most verdicts imply sentences of around one year of prison. Sanctions for possession range from fines to one year of prison, while dealers are never given suspended sentences."<sup>77</sup> Still, the sentences are considered to be "lenient" and give "a strong motive to drug dealers to continue to "work"". <sup>78</sup> The information also outlines information from the ministries of health about consequences of drug use, profiles of users, and gives recommendations for reactive and preventative measures of law enforcement agencies, medical, educational and social institutions, evaluation of work of institutions for treatment of drug addicts, and introduction of new and specialized institutions. This example of the kind of information produced by the Sector for Analysis and Planning is one kind of research that should be carried out, though in more detail, for all security threats in Bosnia and Herzegovina and should be used for development of comprehensive crime prevention programmes accordingly. Indeed, Bosnia and Herzegovina still does not have a comprehensive programme for crime prevention, as most other European countries do,<sup>79</sup> which could be seen as a result of lack of comprehensive research on crime.

<sup>75</sup> Web page of the BiH Ministry of Security. Retrieved on February 22, 2008 from [http://www.msb.gov.ba/home/index.php?option=com\\_content&task=view&id=18&Itemid=36](http://www.msb.gov.ba/home/index.php?option=com_content&task=view&id=18&Itemid=36).

<sup>76</sup> Ministry of Security. (2007). *Information about illicit drugs production and distribution in Bosnia and Herzegovina for the period of 2005, 2006 and first six months of 2007*. Not published.

<sup>77</sup> Ministry of Security. (2007). *Information about illicit drugs production and distribution in Bosnia and Herzegovina for the period of 2005, 2006 and first six months of 2007*. Not published, pp. 11.

<sup>78</sup> Ibid.

<sup>79</sup> See web site of the European Crime Prevention Network providing information about various countries crime prevention programmes. Retrieved on November 20, 2007 from <http://www.eucpn.org/>.



## 4. European standards for research and crime prevention

It is assumed that without comprehensive and reliable qualitative and quantitative information on the trends of crime, fear of crime, causes of and opportunities for crime, effects of reforms on reduction of crime, Bosnia and Herzegovina's authorities will not be able to create realistic and sound criminal policies on one side, and a comprehensive national crime prevention programme on the other side. The underlying assumption is that all three branches of government in Bosnia and Herzegovina, regardless of the current constitutional arrangements, and the civil society, should actively engage in defining of these policies and programmes.

### 4.1. Council of Europe

"Considering that crime-prevention measures have a better chance of succeeding if based on thorough knowledge of the problem they are intended to resolve, acquired through research in the relevant field",<sup>80</sup> Council of Europe Committee of Ministers recommends, among other things:

I "... that the governments of member states include prevention as a permanent feature of governmental programmes for controlling crime so that concrete obligations for action are established and the necessary credits provided; in this context, ensure that there exist clear responsibilities within government for the organisation of crime prevention and its development ..."

II "... that the governments of member states establish, encourage and support crime prevention agencies at national and/or regional and local level, with functions such as:

- a. collecting information on crime and crime trends, on high-risk victimisation groups and on prevention experiments and their results;
- b. planning and implementing prevention programmes and evaluating them;
- c. co-ordinating preventive activities by the police and other crime-prevention agencies;
- d. securing the public's active participation in crime prevention by informing it of the need for, and means of, action;
- e. seeking the support and co-operation of the mass media for crime-prevention activities;
- f. initiating or encouraging research into the incidence of certain types of crime and other questions of importance for crime prevention;
- g. co-operating with decision-makers in evolving a rational and effective crime policy;
- h. implementing training programmes in the prevention field..."

III "... that the governments of member states establish and, when appropriate, promote prevention programmes concerning specific crime problems, aimed at reducing opportunities for committing crime and increasing the risk perceived by the offender of being detected..."<sup>81</sup>

<sup>80</sup> Council of Europe Committee of Ministers Recommendation No. R (87) 19 on the Organization of Crime Prevention.

<sup>81</sup> Ibid.

This recommendation of the Council of Europe Committee of Ministers is binding for Bosnia and Herzegovina as a member state of the Council of Europe, and it further reinforces the need for establishment of research, evaluation and statistics mechanisms for purposes of crime reduction in Bosnia and Herzegovina. Namely, most European countries, old and new member states

of the European Union, have worked on adoption of comprehensive national crime prevention programmes over the past period. These programmes mostly constitute inter-agency efforts to establish mechanisms for data collection, research and analysis of crime, and setting up mechanisms for situational and social prevention of crime and prevention of victimization at various levels of authority and action - from national, regional to local, depending on social and security policy issues.<sup>82</sup> General crime prevention programmes are sometimes combined with specific crime prevention programmes, for example, those focusing on combating drugs crime, juvenile crime, domestic violence, urban crime, hate crime, etc.

<sup>82</sup> See web site of the European Crime Prevention Network providing information about various countries crime prevention programmes. Retrieved on November 20, 2007 from <http://www.eucpn.org/>.

## 4.2. EU framework for crime prevention

The European Crime Prevention Network, which was established by the Council Decision on 28 May 2001,<sup>83</sup> is a network of the European Union composed of Network national representatives and a Secretariat. According to Article 3 of the Decision, "1. The Network shall contribute to developing the various aspects of crime prevention at Union level and shall support crime prevention activities at local and national level. Although covering all types of criminality, the Network shall pay particular attention to the fields of juvenile, urban and drug-related crime", but also the following among other things; 2. In particular, the Network shall: (a) facilitate cooperation, contacts and exchanges of information and experience between Member States and between national organisations, as well as between Member States and the Commission, other constituent entities of the Council and other groups of experts and networks specializing in crime prevention matters; (b) collect and analyse information on existing crime prevention activities, the evaluation thereof and the analysis of best practices, and collect and analyse existing data on criminality and on its development in the Member States, in order to contribute to consideration of future national and European decisions. The Network shall also assist the Council and the Member States with questionnaires on crime and crime prevention; (c) contribute to identifying and developing the main areas for research, training and evaluation in the crime prevention field". In practice, the Network consists of various focal points representing individual member states.<sup>84</sup> The aim is exchange of information and experiences in crime prevention, but also criminological research for more coherent EU-wide action in prevention of crime.

<sup>83</sup> COUNCIL DECISION of 28 May 2001 setting up a European crime prevention network (2001/427/JHA).

<sup>84</sup> "2. Each Member State shall designate not more than three contact points. 3. These contact points shall include at least one representative from the national authorities competent for crime prevention in its many aspects. 4. Researchers or academics specializing in this field, as well as other actors in crime prevention, may be designated as contact points. In all instances Member States should ensure that researchers or academics, as well as other actors in crime prevention, such as non-governmental organizations, local authorities and the private sector, are involved through the appointed contact points." From COUNCIL DECISION of 28 May 2001 setting up a European crime prevention network (2001/427/JHA). For example the Coordination Director of Swedish Brå is one of Swedish focal points for the European Crime Prevention Network, together with a representative of the Ministry of Justice Crime Policy Department and a Criminology professor of the University of Stockholm.

As Bosnia and Herzegovina is not a member state of the EU, this country does not have the obligation of complying with the Council Decision from May 2001. However, as with other issues treated in the Justice and Home Affairs Pillar of the EU, the decisions taken by the Council and practices of EU member states in implementation of these practices can serve as a certain tool for developing "a European standard" - namely a set of minimum of common standards and prohibited practices, which should be observed by all countries aspiring to become members of the EU.



## 5. Ways to solve the problem of lack of knowledge in policy making

Two possible options can be considered in an attempt of remedying the current situation regarding the lack of coordinated and comprehensive research, evaluation and statistics mechanisms in the field of criminal justice and low prioritisation of this type of research in the Bosnian criminal justice and other segments of society. However, each of these options should be looked at through a prism of values as assumed by democratic and good governance. In this context, in order to define values of a well-informed criminal policy making system, one would have to consider the following features and to what extent they can be achieved.

1. A well-informed criminal policy making system should be based on **knowledge**, where knowledge constitutes high quality quantitative and qualitative information about crime, causes of crime, victims of crime, and ways to fight crime through implementation of criminal justice policies. The criteria for measuring knowledge as a principled goal are contents and amount of information collected, methodologies for collection of data and research, which is usually conditioned by qualifications of researchers, number of qualified researchers, availability of data, production of good quality informative reports and evaluations.

2. Still, knowledge cannot be completely useful if is not created through **independent and transparent** procedures, and without undue influence in methodologies for acquiring of knowledge, processing and presentation of findings. In that sense, the criteria for evaluating independence and transparency would be the legislative and institutional set-up for acquiring and transferring knowledge about criminal justice information, policies and practices, time of release of knowledge, as in the case of Swedish National Crime Prevention Council, (non)acceptance by policy makers, as in the case of the Law Commission of England and Wales. (See Appendices 1 and 2)

3. **Effectiveness** of knowledge in the process of criminal justice policy making is high at the scale of priorities. Namely, independently acquired and processed knowledge cannot be of use if it is not used properly and in a meaningful and purposeful way. In this context, the criteria for evaluation would be the extent of use of available knowledge for informed criminal policy making, which would be measured by the number of reports and evaluations issued and their effects on policy making, i.e. through quotations from reports, through references to research, through references to statistics, as well as through the number of policies changed due to availability of independently acquired knowledge, as, for example, in the case of "implementation rates" of Law Commission recommendations by the British Government. (see Appendix 2)

**Visibility and availability** can also come down under the goal of effectiveness, as independently produced knowledge, which is not confidential in content and represents findings based on available and public data, should be made widely available for groups other than the policy-makers, meaning researchers, media, criminal justice and other professionals, academia, non-governmental organizations, and the wider public. The criteria for measuring of this goal would be the number of publications printed, the number of publications posted on-line and distributed in other ways to all interested parties, the number of sold publications, those quoted in other works, documents, and media reports. The visibility and availability of knowledge can also be measured by public perception surveys on a specific topic dealt with by the criminal justice mechanisms in place.

4. **Efficiency** is also a goal of informed criminal policy making, and can be measured through comparison between the amount of resources put into the process of gaining independent knowledge and conducting of research for purposes of improving policies, and value of this knowledge, i.e. policy change.

However, there are some constraints in reaching of the four individual goals, and they are primarily political feasibility and cost.

1. **Political feasibility** can be measured through eventual need for constitution change, legislation change and institutional change, but also the willingness of political authorities to support establishing of an expert, inter-institutional research, evaluation and statistics body. As seen above, not all governments support this kind of practice, which is a risk that should be borne in mind.

2. The **cost** of setting up of mechanisms for providing relevant and good quality information for meaningful policy improvement and change may be an obstacle and this can be measured by general availability of funds, and prioritisation of this goal for government spending, but also some external factors, such as the influence of international monetary institutions.

## 5.1. Introduction of research unit into existing institution - Policy option 1

One way to approach resolving of the identified problem would be introduction and establishment of research mechanisms in one of the above mentioned criminal justice institutions in Bosnia and Herzegovina. This means that **a special research, evaluation and statistics unit could be set up in the Ministry of Security of Bosnia and Herzegovina**, as is done in some other countries, for example in Great Britain. This would in fact mean expansion of the existing Analysis and Planning Unit, which already has some research tasks, though not comprehensive enough. As the Ministry of Security is a state-level and a state-wide institution, this unit as its constituent part, would be well placed to request information from other criminal justice institutions in the country, collect, keep and analyse this information, as well as report on this information.

In terms of gaining of knowledge in this sense, this would depend on the type and amount of information collected (quantitative information from official and alternative sources would be required), on the availability of data from individual criminal justice institutions (for example, through a central database into which the information of police forces, prosecution service, courts, prisons service would be regularly and directly entered), number of qualified researchers (in any case more than the existing five in the Analysis and Planning Unit of the Ministry of Justice), qualifications of researchers (researchers of different profiles, mostly those qualified for applied instead of academic research have been considered the best choice by the Swedish Crime Prevention Council), research approaches (criminal justice research requires an interdisciplinary approach as one of its vital hallmarks), and production of good quality informative reports and evaluations. Judging by the current capacities of the Ministry of Security, reaching of the goal of knowledge as one of the first principles of informed criminal justice policy making would be possible only if the established unit would be staffed with a sufficient number of qualified professionals of different profiles in the field of applied social and other research, and if these units could rely on regular delivery of accurate data from other relevant institutions.<sup>85</sup>

<sup>85</sup> Activities are underway in Bosnia and Herzegovina on establishing of a network of synchronised and digitalized hierarchy for security and judicial agencies, i.e. infrastructure for wireless telecommunications system connecting individual criminal justice institutions for exchange of data. It is believed that the new system can be used as the central hub of the Home Office for direct feeding of information by various agencies into this centre.





However, in line with the problem identified by this policy research, new knowledge is not acquired only by research, but also statistics and evaluation. In this sense, the question raised is whether the processes of research, statistics, evaluation would be fully independent if carried out in a department of the Ministry of Security. Namely, surely the research topics would be selected by the policy-maker, i.e. the minister, who is a political figure, as is the case with directive research in the Home Office. Very little other research, defined as important by the professionals, could be conducted by this unit, if for nothing else, then for the lack of remaining resources for research other than that requested by the minister. Also, it is uncertain whether it would be appropriate for a department of the Ministry of Security to be in charge of evaluating policies and practices of other institutions, for example conditional release practices, police cautioning practices, or court sentencing policies, as these evaluations would have to be approved by the minister, and surely be in line with his/her political views, which jeopardizes independence. Also, if research and consultations for purposes of conducting criminal justice legislative review are considered as knowledge, this exceeds the powers of one unit in the Ministry of Security, or even the whole Ministry, as this activity would be mostly under the competences of the ministries of justice.

This can also lead to an imbalance among different types of research, as was the case in the Home Office after the government decided that statistical research and more focused short-term policy research is more desired than long-term social research. Thus, the independence limitations can affect the content of research, the methodology of research, sometimes even presentation of findings. For example, there could be a potential danger of a unit of the Ministry of Security collecting, analysing and publishing the official crime statistics, the victim surveys and self-report studies. Some of the reasons for this are outlined above, but these were explained by the lack of clear standards for counting of crime. However, when it comes to independence of research, prominent criminological literature has reservations regarding accuracy of statistical data presented by the ministries. William J. Chambliss (2007) says that “these data, although widely used by criminologists, are often driven more by political and administrative considerations than by concern for accuracy.”<sup>86</sup> He gives an example of the Uniform Crime Reports published by the FBI and the National Criminal Victim Survey reported by the Bureau of Justice Statistics, both controlled by divisions of the Department of Justice of the United States of America, whereby “the FBI resorts to gimmicks and tricks to make the problem of crime appear as threatening as possible.”<sup>87</sup> For example, in order to justify needs for more funds and personnel, according to the author, the FBI does its best to show increase of crime by, for example, not making a difference in recording between attempted crimes and completed crimes, by counting both intentional and unintentional deaths as “homicide”, by counting each person who commits a crime and each victim as a separate incident, which means that if five men who got into a fight with five other men, this would be recorded as ten offences, if three men are involved in one carjacking, this would be recorded as three carjacking, etc. On the other side, the FBI does its best to report high clear-up rates, so the vehicles stolen for “joy-rides” and then later found abandoned somewhere are cases recorded by the police as solved.<sup>88</sup>

In terms of qualitative research, if it is done within the Ministry, and not contracted out to independent consultants or academia, the methodology of research may not be fully independent, and can easily turn into becoming “guided” by the political personalities. This would require regular briefing of the policy makers by researchers in the course of research, through various interim reports in order to avoid surprises, as is the practice in the Home Office, and probably a selection of what eventually gets published by the Home Office or not, which is a natural discretionary power of every governmental department.

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<sup>86</sup> Chambliss, William J. (2007). The Politics of Crime Statistics. In Sumner, C. (Ed.), *The Blackwell Companion to Criminology* (452-70). Blackwell Publishing, pp. 452.

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<sup>87</sup> Chambliss, pp. 453.

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<sup>88</sup> Chambliss, pp. 453.

This, however, affects the full transparency of the research process and research findings too. For example, the Information about the Security Situation in Bosnia and Herzegovina, which is produced regularly by the Analysis and Planning Unit of the Ministry of Security, is usually not published until adopted by the Council of Ministers. That this not is a lonely case is illustrated by the recent media report on the closed session of the FBiH Parliament due to discussion on the regular annual information about the security situation presented by the FBiH Ministry of Interior, the Prosecutor's Office and the Supreme Court.<sup>89</sup>

<sup>89</sup> Sehercehajic, S. (2008, February 19). Security situation - "official secret"?!. *Oslobodjenje*, p. 5.

In terms of effectiveness, if the Analysis and Planning Unit of the Ministry of Justice hired more staff in the Regulation and Planning section, it would be expected that the information collected and analysed by the analysis unit on basis of research could be used in proposing of policies and policy options. However, it is uncertain whether research that is not widely accessible could be considered by the criminal justice practitioners, academia, non-governmental organizations, professional associations, and media in any type of consultation process, process of raising of awareness on certain issues, some development or training initiatives, which should be the main aims of a criminal justice research, evaluation and statistics system. Also, it is questionable whether this unit of the Ministry of Security would be seen by other ministries, or even other units in this Ministry due to its parallel and equal status, as "the first among equals" in terms of overarching policy research for all institutions, but perhaps research relevant for its direct area of responsibility only.

Efficiency of this process would depend on the amount of resources required, working ethics of the employed researchers, and consequent results of research efforts, i.e. direct outputs. Namely, a professional working with the Ministry of Security now costs up to 3,000 Bosnian marks per month (office costs included),<sup>90</sup> and participates in producing of around five reports every year. This is compared with around one report produced by the Law Commission researchers or the Swedish Crime Prevention Council researchers per year for much higher cost due to differences in resource and funding availability. However, the comprehensiveness of reports cannot be compared in any way, but neither can the amount of time allowed for research in British and Swedish institutions, the number of research staff, the quality of input from criminal justice institutions, or the amount of external support in form of consultants and other contractors. This means that, with the increase of resources, staff, and consequently time, the Analysis and Planning Unit of the Ministry of Security could reach efficiency required by sound public spending.

Political feasibility for this option may not be the problem unless the current government shows lack of support for expansion of current capacities and duties of the Analysis and Planning unit, as a sign of either lack of awareness or simply unwillingness. The potential political problem of inter-entity coordination and sharing of information does not seem to be a big risk, as confirmed through interviews with staff of the mentioned unit and their current successful cooperation with all entity institutions.

Expansion of the unit would entail certain costs, which would not, however, represent a major obstacle, as the Ministry has already planned for additional posts, which are not filled in the Regulation and Planning section of the Analysis unit, but these positions have not been filled due to unapproved budgets so far. This, however, does not mean that these requests will not be granted and provided for in the budget in the coming period. Still, a potential problem may be persuading the government of the need for change of internal organization of the unit to incorporate new functions and duties.

<sup>90</sup> BiH Audit Office. (2007). Audit Report for the BiH Ministry of Security for the Year 2006. Retrieved on February 22, 2008 from [http://www.revizija.gov.ba/bs/audit-rep/doc06/IZV\\_SIG\\_bos.pdf](http://www.revizija.gov.ba/bs/audit-rep/doc06/IZV_SIG_bos.pdf).



## 5.2. Establishment of separate and independent research institution - Policy option 2

The second option for solving of the problem of lack of qualitative and quantitative research on trends and practices in the criminal justice sector in Bosnia and Herzegovina would be the one following the Swedish example - i.e. **setting up of a separate and independent institution in charge of criminal justice research, evaluation and statistics**. Still, this institution would also have to be established by the government in accord with the BiH Law on Ministries and Other Administration Bodies.<sup>91</sup> The new research institution would have the status of an "independent administration organization" in line with Article 17 of the Law, and similar to that of the BiH Agency for Statistics,<sup>92</sup> for instance. The new institution would be placed under the Council of Ministers in administrative and hierarchical sense and would have to be established by a special law.<sup>93</sup>

This body would have state-wide jurisdiction and legal powers to request information from entity-level and cantonal institutions (in analogy with the Agency for Statistics), which is an important condition for reasons of access to information and general comprehensiveness in approach to research and policy recommendations, and would not be limited to one specific sector of interest in scope, given the interdisciplinary nature of criminal justice research. Similar institutions are headed by directors, who are appointed and removed in line with the Law on Civil Service in the Institutions of Bosnia and Herzegovina. They are funded from the Bosnian state institutions budget, and/or independent sources.<sup>94</sup> This model for a new research, evaluation and statistics institution in the criminal justice field, by looking at the main values of one such facility, seems to satisfy the main criteria identified on the basis of research conducted for purpose of this policy proposal - knowledge, independence, effectiveness, and efficiency.

To start with knowledge, as this institution is expected to conduct research, collect statistics, and carry out evaluation, and subsequently gain knowledge this way, as an autonomous institution, it is much better placed than any organizational unit of any Ministry to have access to a wider range of information sources (as it would be an all-encompassing institution covering areas of responsibilities of a number of government departments and criminal justice institutions), to hire more specialized staff, more diverse staff than any ministry (which usually has very rigid rules about the structure of staff), such as criminologists, sociologists, generalists, lawyers, statisticians, psychologists, to have flexibility to hire short-term consultants from consulting firms and the academia and that way acquire broader knowledge of applied research in general, methodologies of criminological and other related social research, but also of specific criminal justice topics. In any case, having a separate institution for research in the criminal justice sector would provide the opportunity for acquiring inter-disciplinary knowledge, i.e. knowledge gathered from various institutions in the criminal justice chain and processed in a way to suit a wide spectrum of users. For example, the Swedish Brå does not aim at employing academicians, but researchers in various fields who do not necessarily have academic ambitions, but are more interested in applied research. Only this way relevant knowledge can be secured. Namely, unlike at universities, where any and every research can be conducted, depending even on arbitrary interests of professors and students, which do not necessarily have to be a priority under current circumstances in a community, applied research in the criminal justice field is concerned with the most pressing needs of the community and policy-makers. This, however, does not mean that academia cannot be involved in applied research, if commissioned by some institution and with adjusted terms of reference.

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<sup>91</sup> Law on Ministries and Other Administration Bodies of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina No. 5/03).

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<sup>92</sup> Established a Decision of the High Representative enacting the Law on Statistics of Bosnia and Herzegovina on 21 October 2002. Retrieved on April 3, 2008 from [http://www.ohr.int/decisions/econdec/default.asp?content\\_id=28432](http://www.ohr.int/decisions/econdec/default.asp?content_id=28432).

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<sup>93</sup> Article 17 of the Law on Ministries and Other Administration Bodies of Bosnia and Herzegovina.

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<sup>94</sup> Independent administrative organisations shall be financed from the budget consisting of funding from the state budget and independent sources, according to Article 5 of the Law on Ministries and Other Administration Bodies of Bosnia and Herzegovina.

Independence of this institution's research would be guaranteed by the legislation, as in the case of the mentioned BiH Agency for Statistics. This would mean that the institution would serve to the government, as the policy-maker, in order to provide evidence-based research for purpose of good policy-making in the criminal justice field. However, the head of the institution would be selected through a civil service recruitment procedure, not a political procedure, the institution would be entitled to a portion of the budget from independent sources, not only the country's budget, and the independence of knowledge would be guaranteed by legal provisions similar to those from the BiH Law on Statistics: "When implementing the Programme, the staff of the Agency and Entity Institutes, shall not seek or take instructions from Governments, other State's authorities, political parties or any other interest groups notably in the selection of data sources, statistical methods and procedures, in the contents, form and time of dissemination, and in the application of statistical confidentiality."<sup>95</sup> This means that the selection of topics would be left to the institution, as in the case of Law Commission of England and Wales and partly with the Swedish Crime Prevention Council, as this will be the more informed, expert body on criminal justice issues, and should act as an advisor for the government on which are the most pressing issues, policies and practices that need research. It would be ideal if a relationship similar to that in Sweden could be developed between the new institution and the government and its relevant departments, which is a relationship on consultation in the process of defining research programmes. This is a practice exploited by the Law Commission too, which carries out extensive consultation process with all stakeholders in order to define the most necessary research needs, before submitting a proposal to the Lord Chancellor and the Ministerial Committee. Still, this does not mean that the Law Commission would not fulfil other, urgent requests of the government, although it does not have to once the programmes are defined. Still, as research activities in the Swedish Brå are funded by the government, the government, in consultation with Brå, decides on a set of research topics for a certain period of time, and allocates a share of the budget, while the rest of the government allocated budget can be used for this institution's own research. There is no reason why the Bosnian new research institution should not function on the same basis, and be paid by some other public institutions or non-governmental institutions to carry out research or evaluations for them.

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<sup>95</sup> Article 20 of the Law on Statistics of Bosnia and Herzegovina.

An important aspect of independence, apart from selection of topics, is the methodology of research and transparency of research. The new criminal justice research institution, and the experts working in this institution, would be free to choose the methodology of research, and the government will not be allowed to interfere with this, unlike in the Policy option No. 1, or with the findings. Censorship by the government would be less feasible.

In terms of evaluation, an independent institution is in a better position to carry out evaluation of institutions and practices, and propose ways for improvement. This can be said for legislative review as well, following the example of the Law Commission. As far as statistics are concerned, as seen from the US examples above, it would be more reliable and more appropriate if an independent institution was in charge of official statistics, victim surveys, and even self-report studies, which can be controversial if carried out by police, or other criminal justice institutions, but not so much if conducted by an independent expert body. This expert body, would, in any case, be well placed to establish the standards for recording of statistics, and then establish ways of communication, with the existing capacities, to collect and process this information. As the statistics would be concerned only with the criminal justice field, specialization for this specific area of interest in a criminal justice research institution would be worthwhile, following the model of devolution of statistics in Sweden to specialized agencies.



Also, an independent and specialized institution would be better at fighting pressures created by changing political and security circumstances, by insisting on a balance between social criminological research and statistical information, and generally safeguarding interests of the criminal justice system in a pool of other societal interests.

As regards effectiveness, independent research can be used by more criminal justice institutions for various purposes and by various stakeholders. An independent institution can ensure greater availability and visibility of its research, which means that the research can be used as a toolkit for improvement of criminal justice policies and practices, training of practitioners, raising of awareness of the public about work of criminal justice institutions and consequent improved public perceptions and support for their work, but also for innovation and development. In Bosnia and Herzegovina, policy development would constitute creation of a national crime prevention programme and local units for crime prevention, which are currently non-existent. This programme would be based on the institution's qualitative and quantitative research. Other benefits could be independent evaluation of sentencing policies and their effects on crime prevention, as well other research about causes of crime, offenders and victims, but also prosecutorial and police ways to fight crime. The use of existing capacities for research would contribute to its effectiveness, and an independent expert institution would have more opportunity and openness to work with different government departments, parliaments, professional associations, non-governmental organizations, the media for greater insight into the justice and security situation in Bosnia and Herzegovina.

The efficiency of the new institutions would be measured in the same way as efficiency of a Ministry unit, except that the more comprehensive research would surely be conducted, as this would have to be a bigger organization than a Ministry unit, hiring at least 20 researchers,<sup>96</sup> publishing at least 20 research pieces a year, but specializing only in applied criminal justice research, with all quantitative information, a developed IT system, if the Swedish model is going to be reproduced (to the extent possible in Bosnia and Herzegovina). If these resources are not provided, as in the case of Ministry unit, the efficiency will, naturally drop.

Political feasibility may be an obstacle in implementing this policy option. Establishing of a wholly new institution, which conducts "only" research may not be a priority of the current or some other coming government. As said previously, this would not be a surprise, judging by examples of government policies in more developed countries. For example, "Michael Howard carefully scrutinized research during his terms as Home Secretary (1993-97) and his junior minister (David Maclean) went as far as proposing closure of the research section of the Home Office,"<sup>97</sup> which was different from the Labour government allocating the overall budget of £250 million for the Crime Reduction Programme from 1999 to 2002, of which £25 million was dedicated to research.<sup>98</sup> Under Bosnian circumstances of minimal investment in research, setting up of a criminal justice research institution can be accompanied with some difficulty.

The cost implications of setting up of a new institution would also pose a barrier to advocating such new policy. Establishment of a new institution of this sort could cost not more than two million Bosnian marks per year,<sup>99</sup> which is not an unmanageable amount if the government proclaims this to be one of its priorities.

<sup>96</sup> The total number of employees in the BiH Agency for Statistics is 39, but these are not all professional staff. BiH Audit Office. (2007). *Audit Report for the BiH Statistics Agency for the Year 2006*. Retrieved on February 22, 2008 from [http://www.revizija.gov.ba/bs/audit-rep/doc06/lzjestaj\\_AS\\_2006\\_bos.pdf](http://www.revizija.gov.ba/bs/audit-rep/doc06/lzjestaj_AS_2006_bos.pdf). The Swedish Brå employs around 90 people altogether.

<sup>97</sup> Noaks and Wincup, pp. 25.

<sup>98</sup> Noaks and Wincup, pp. 24.  
<sup>99</sup> The 2006 budget of the Ministry of Security was 5.35 million KM with 105 employees (BiH Audit Office. (2007). *Audit Report for the BiH Ministry of Security for the Year 2006*. Retrieved on February 22, 2008 from [http://www.revizija.gov.ba/bs/audit-rep/doc06/LZV\\_SIG\\_bos.pdf](http://www.revizija.gov.ba/bs/audit-rep/doc06/LZV_SIG_bos.pdf)), while the 2006 budget for the Statistics Agency was 1.6 million KM with 39 employees (BiH Audit Office. (2007). *Audit Report for the BiH Statistics Agency for the Year 2006*. Retrieved on February 22, 2008 from [http://www.revizija.gov.ba/bs/audit-rep/doc06/lzjestaj\\_AS\\_2006\\_bos.pdf](http://www.revizija.gov.ba/bs/audit-rep/doc06/lzjestaj_AS_2006_bos.pdf).)

## 6. Conclusions and recommendations

The lack of prioritisation of research in any field, the criminal justice field included, by the authorities of Bosnia and Herzegovina have led to an absence of a standing, coordinated and comprehensive research mechanisms in the field of criminal justice. This resulted in a situation where isolated research and statistics facilities are scattered around and isolated in different criminal justice institutions, which is contrary to good practices of the joined-up approach in the criminal justice system.

Incomplete and unreliable information collection in terms of quantity and content in different segments of the criminal justice chain fail to provide a comprehensive picture of the extent and trends of crime, with very little information about offenders and victims, which impedes comprehensive research on the causes of crime for purposes of crime prevention. Although some information is collected and analysed by the Ministry of Security of Bosnia and Herzegovina, and some other justice, security and statistics institutions, the information collected is rarely thoroughly analysed due to lack of such capacities, or lack of interest. The lack of analysis leads to lack of evidence-based policy recommendations, and policy decisions are frequently made on basis of urgent reactions, instead of forecast advantages that meaningful research can offer.

For this reasons, examples of the two developed countries were examined, showing two different approaches to setting up of research, statistics and evaluation mechanisms. The policy options proposed are developed based on the combination of both models, with the second policy option taking the best from the different Swedish and British models. In conclusion, the advantages of independent research institutions in Sweden and Great Britain have prevailed, providing clear and concrete benefits of such models.

The following policy recommendations for criminal justice research in Bosnia and Herzegovina are made:

- A standing, comprehensive and coordinated mechanism for criminal justice research should be established for purposes of informed work on crime prevention as the one of the main goals of every criminal justice system, which is also an obligation imposed by the Council of Europe, and a European standard, as exemplified by the mentioned recommendation, but also the EU Crime Prevention Network.
- An independent expert body for criminal justice research should be established as an independent administration organization under the Council of Ministers with the director selected and appointed in line with the BiH Civil Service Law. This body should be guaranteed operational and professional independence by the law, and should hire professional researchers of legal, criminological, sociological, psychological academic background. A special law establishing the new institution should be adopted.
- The body should conduct applied inter-disciplinary research aiming at quantitative (official and alternative) and qualitative surveys and evaluation of the criminal justice system practicalities with the aim of improvement through policy recommendations and policy change, training and development, and increasing of public confidence and support through information dissemination among professionals and public.





- The institution should be divided into following departments: 1. Research (qualitative research examples given in the Swedish and British case studies and throughout the text), 2. Statistics (comprising official statistics based on clear counting rules by the police, prosecutorial service, courts and prisons, victimization surveys, self-report studies, or other sources, such as hospital admissions, coroner information, etc.), 3. Evaluation (for evaluation of work, policies and practices of criminal justice institutions), 4. Legislative review (in charge of monitoring and researching implementation of laws and proposing evidence-based change), 5. Communications (conducting perception polls, producing informational materials, dissemination of research information for purposes of raising public awareness in the criminal justice system and greater public confidence and support for its institutions, and communication with media).
- The new institution should be supervised by a “scientific council” meeting biannually, revising work of the research institution, providing guidance for creation of work programmes, liaising with partner institutions, making recommendations on resources needed for work of the institution.
- Relationships between this expert body and other institutions in the criminal justice system would be regulated by the special law on this institution, and the laws of individual criminal justice institutions, for purposes of defining the exchange of information and defining responsibilities. Individual criminal justice institutions, i.e. the police, prosecutors’ offices, courts, prisons should pool information in their representative bodies based on clearly defined counting and registration rules, which should then forward the information on regular basis and through efficient IT mechanisms to the new criminal justice research institution.
- Decisions on selection of research topics should be negotiated in a consultation process between the expert institution, as an advisory body, its Scientific Council, and relevant government ministries and criminal justice institutions, with the final approval given by the Ministerial Committee for the new institution, comprising representatives of relevant ministries and criminal justice institutions. Some room in the budget of the institution should be allowed for its own *ex officio* research that may be deemed necessary, while services can be provided for other stakeholders too from their or other independent sources of funding. There should be no interference into the choice of methodology and resulting findings of the institution’s research, which should also be regulated by law.
- All final reports on research, evaluation, legislative review or statistics should be published on the institution’s web page regularly, as well as printed in form of publications. The reports and policy options should be sent to policy-makers, criminal justice institutions and practitioners, police and judicial and prosecutorial training centres, parliamentary research facilities, professional societies, and interested NGOs.

## APPENDIX 1 Case study

### Swedish National Crime Prevention Council (Brottsförebyggande rådet Brå)<sup>100</sup>

<sup>100</sup> Information about this institution was obtained during a study visit to the Swedish National Council for Crime Prevention and interviews with heads of individual departments and employees.

This body was established in 1974 as part of an initiative of the government to establish a board of representatives of law enforcement, justice and government institutions to join forces and jointly work on prevention of crime in Sweden. At the time of the establishment, the board had 10 staff and was entrusted with inter-institutional dialogue for identifying trends of crime and finding solutions for prevention of crime. However, over the years, Brå has grown into a big institution, which currently employs up to 90 people, most on full-time basis, and some on short-term assignments. The Swedish government has, over the years, added duties and responsibilities to the Council and started to use it as a source of knowledge and specific crime-related information for purpose of informed decision-making and policy-making. This is a specialized autonomous institution, which can serve as one model for consideration in establishing criminal justice research, evaluation and statistics mechanisms in Bosnia and Herzegovina.

Brå is a government-established institution in charge of crime-related research, evaluation, statistics and crime prevention. This institution is funded by the government and given specific tasks by the government, but it is highly independent in its research, as the government officials never interfere in research methodology and findings. Brå is primarily a body of experts and professionals in the field of criminology and its services can be used by other institutions, not only the government. For example, the prison service or the police may commission reports of Brå, while it is not infrequent that some non-governmental organizations do the same. In this sense, Brå can be and frequently is the most relevant source of information for all stakeholders in the field of criminal justice in Sweden.

Brå is established by an act of government, which is a regulation similar to a law. This is more a general instruction on work of Brå and relationship with the Ministry of Justice and the government. Annual work plans of the Council are governed by the Ministry's annual Steering Letters outlining regular and specific tasks entrusted by the government to the Council. On the basis of this letter, the Council budget allocated by the government is defined on yearly basis.

The organizational division in the Swedish Ministry of Justice, which is in charge of Brå, is the Division for Crime Policy. This division has overarching responsibility for criminal policy issues and handles issues related to the prison and probation services, crime prevention efforts and victims of crime. This division is also responsible for budgetary and operational issues concerning the National Council for Crime Prevention, among other institutions. The head of this division in the Ministry of Justice is a civil servant. The managerial officials of Brå liaise regularly with this Crime Policy Division in the Ministry of Justice and this relationship is interpreted as a two-way communication and dialogue for mutual benefit. Yearly priorities are discussed between the Council management and the Ministry of Justice every year for the next year. It frequently happens that the Ministry has established priorities and tasks on its own, but also very frequently the advice of Brå, as an expert agency, is considered and accepted, and turned into priorities for research, evaluation and other activities.

The recent change of government in Sweden has not affected Brå, despite the fact that the centre-right government is generally sceptical of expert authorities and they believe that research should be done by universities. This has, in fact, resulted in closure of several agencies, but Brå was preserved.



Brå is governed by the Director-General. The work of the Council is supervised by a Scientific Council and a Supervisory Committee. The former consists of six university professors, who are sometimes asked to review and comment on research reports and findings (but usually at a very late stage of research). The Supervisory Committee has been established in a new form in 2007. It now consists of up to 10 members from various criminal justice institutions and universities. Previously, this Committee had consisted of members of the Swedish Parliament. The Parliament itself has rarely commissioned reports from Brå, but these reports are available to both the position and the opposition in their decision-making. The Brå reports and information are consulted in the legislation-making process, mostly in the government's drafting phase, but also later in the consultation process.

## Departments of Brå

### 1. Research and Development Department

This department is staffed with 10-12 researchers, mostly holders of PhDs and other highly qualified researchers. Around 10 researchers are employed full-time over the year, while some are employed on short-term basis. Those who are external consultants are usually asked to review research reports and comment on them early on or later in the course of research. The external reviewers are very frequently university professors or members of the Scientific Committee of Brå.

This department works on research commissioned by the Government and by other bodies, but also on research upon its own initiative. Around half of all research is commissioned by the Government. For example, the work in progress for the years 2007-2008, which was commissioned by the Government in the yearly Steering Letter, includes research on violence against persons with disabilities, discrimination in the criminal justice process, prevention of violence in public settings, discrimination in judicial process. Some research can be commissioned by other paying institutions, e.g. the police, the non-governmental organizations dealing with former convicts in post-penal environment, while some research can be initiated by Brå itself. For the latter, Brå does not need the Government's permission, but does need the funds and the Council usually calculates the availability of funds for such research. This research is initiated mostly as a result of some preceding research, when certain issues came up and turned out to be particularly problematic or interesting.

Despite the fact that most of the research is commissioned by the Government, the Government does not interfere into freedom of research, the choices of methodology or research findings, conclusions and recommendations. It even frequently happens that the research reports are sent at the same time to the Government and the media. It sometimes happens that the media are informed even earlier, if there is need for specific media support for particular issues. However, almost always the Government is informed about progress in research and prepared for the basic findings.

The methodology chosen for research is up to the Brå Research and Development Department. Usually one year is the average time allocated for research on specific issues and the number of researchers depends on the scope and scale of research. Research plans are made at the beginning of every project, with control, management and evaluation mechanisms. These plans determine the number of researchers, methodology of research, timeframe, control

mechanisms, etc. The reports must never be late, which is why good planning is essential. The number of researchers varies from project to project. For example, three researchers are working on the Swedish Crime Victim Survey, while some activities are outsourced, for example, the phone polls.

The research in general relies on quantitative and qualitative data. Quantitative data is obtained from the Statistics Sweden or the official Crime Statistics of Sweden held by Brå, and sometimes phone polls and other polling methods. Qualitative research is done through desk-research, field missions, structured interviews and focus groups. Evaluation of research is done both internally and externally, by Brå experts or external reviewers. Research reports are written in an easy-to-understand language and published in small easy-to-carry and easy-to-read publications. Their aim is to be accessible and understandable for the Government, Parliament, criminal justice institutions, crime prevention networks, non-governmental organizations, media and the wider public.

The research is generally used for political debate on some issues. This can follow after the Government's initiative to trigger certain change, or simply after Brå-initiated research. For example, the report on child pornography has recently triggered considerable debate and Brå was frequently contacted by the media to comment on this issue.

## **2. Evaluation Department**

As in the case of Research and Development Department, the Evaluation Department also works on three different initiatives. Most of the work is commissioned by the Government, when this department of Brå is asked to evaluate a certain policy, or legislative and institutional changes introduced by the Government, for example the narcotics projects within correctional treatment (a government initiative in correctional institutions), and evaluation of new rules for transitional release from prison, introduced as part of new legislation. Over the past couple of years, the Evaluation Department has also started to work more directly with other institutions and agencies. For example, the police have recently asked for an evaluation of their own work and funded this evaluation study, e.g. police enquiries regarding young offenders. Also, the Evaluation Department can also initiate certain evaluations itself, following findings from the Government-commissioned reports. For example, Brå has initiated evaluation of work of social authorities in cases of juvenile crime. Another interesting example is evaluation of the KRIS (C.R.I.S. Criminals' Return into Society) non-governmental organization, which was initiated both by Brå and this non-governmental organization.

The following institutions have been subjects to or asked for evaluation by Brå:

- The police were evaluated for procedures and practices related to domestic violence restraining orders
- The prosecution service was evaluated for criteria for issuing restraining orders
- The court service was evaluated for practices related to community service after the Government's new law
- The prison and probation service evaluation constituted a considerable part of the Evaluation Department's work over the previous period. The evaluation was related to use and efficiency of electronic monitoring of prisoners upon Government's reforms and requests for evaluation. This specific report led to dissemination of electronic monitoring practices from one region to the whole country.



- Social authorities were evaluated in cases of juvenile offenders and victims
- Some NGOs were evaluated as well.

In the process of evaluation, the following segments are evaluated:

- Implementation of law
- Satisfaction of stakeholders and users with institutions
- Effects and goals of institutions
- Comparative analysis over time for identification of improvement or deterioration.

Evaluation can have the following effects:

- Legislation change
- Change and improvement of practices (e.g. improvement after evaluation concerning drug addicts in prisons, introduction of evaluation and self-evaluation of prisons, etc.)
- Dissemination of good practices (e.g. in electronic monitoring, the Government broadened the application area)
- Training (e.g. Brå documents used in training of judges, prosecutors, police; after one Brå report, the chief of police distributed it to all 21 police organizations in the country with the task to respond to requests for change).

The Evaluation Department has 10 staff, which is four researchers and the head of department, and administrative staff. The researchers may be academics in various fields, e.g. criminology, psychology, sociology, political science. It is also very useful if some members of staff have mixed competences, e.g. in law and psychology, which gives them deeper understanding of some particular issues. In recruitment of staff, the Evaluation Department is not aiming at academic merits of candidates, but those candidates who are capable of mixing theory and practice and those who are capable of doing applied research. External researchers are generally not viewed as the best choice in recruitment, as it can become very difficult to control methods and progress of their work. Closer contact between the chief and employees has proven to be more beneficial.

One to two researchers work on individual projects. The time for evaluation is much shorter than at the universities, which makes this evaluation more efficient. The evaluations are done in close cooperation with the institutions that are being evaluated and with stakeholders of these institutions. Brå needs to earn respect of these institutions in order to establish credibility. All evaluations are done on the basis of detailed planning, for purposes of control and evaluation. This includes check questions such as "are the questions being answered". Some projects take one to one and a half years, while some can take up to three years. In any case, reports cannot be late. The Evaluation Department has a free choice of methodology, but ethical issues must be observed. Also, the evaluation plan should clearly be communicated to the institution that is subject to evaluation.

External reviewers comment on the evaluations, as well as the institutions evaluated. All evaluations must be approved by the Director General of Brå before they are sent out. The reports are sent directly to the Ministry of Justice, if the Government commissioned the report. Sometimes, mini-seminars are held with the Ministry staff to explain the evaluation. The same is done with other institutions that are evaluated. At the seminars, the findings and results of evaluation are presented and explained. The public are informed through press releases and posting of information on the Brå web site.

As more concrete illustration of work of the Brå Evaluation Department, the following eight projects are planned for 2008:

- Police treatment of children under 15 committing crime and relapse study
- Role of social workers in juvenile crime cases
- Assault among people who do not know each other
- Prevention of street crime
- Evaluation of new rules for the prison system with regard to conditional release
- Evaluation of crime victims organization
- Report on drug addiction in prisons
- Evaluation of electronic monitoring for convicts.

### **3. Statistics Department**

This department of Brå was established in 1994 after a big reform of the statistics system in Sweden, when different segments of official statistics were devolved to several specialized agencies. That way the crime statistics were delegated to Brå and this institution has been in charge of Sweden's official crime statistics since that time.

The Statistics Department has focused its work on the three following topics over the past period - self declaration survey, the Swedish crime survey and official Swedish crime statistics, with the first two not being official statistics.

The self-declaration survey aims at young people, around 15 years of age, who are asked about their eventual participation in theft and violence. This study aims at estimating juvenile crime, but also measures exposure to crime and high risk lifestyle. It has been conducted since 1995 every two years.

The Swedish crime survey was conducted for the first time in 2006 and it is going to be repeated every year. The data collection is done through phone interviews with Statistics Sweden and around 20,000 individuals aged 16 to 79 are randomly selected and asked specific questions. These questions aim at discovering exposure of Swedish population to crime (threats, assaults, sexual offences, robbery, harassment, burglary, vehicle theft, bicycle theft, fraud), fear of crime, and public confidence in the criminal justice system.

Official Swedish Crime Statistics represent a comprehensive and elaborate task and product. The crime statistics of Sweden consist of reported crimes, cleared-up crimes, persons suspected of crimes, persons found guilty of crime, the correctional care system, recidivism statistics, narcotics offences, and hate crime statistics (not official). This data is collected from year to year with consistency in topics for reasons of yearly comparisons. However, this system is not without problems, particularly when it comes to following a certain identity from reported crime to convicted offender.

Data collection is done by several agencies. Police/customs authorities, prosecutors' offices, courts and the correctional system, meaning the whole justice chain, send information about every single case to the Brå Statistics Department, depending on their powers and areas of responsibility. Consequently, the law enforcement agencies send information about recorded offences, cleared-up offences and suspected persons, while similar information are also sent





by the prosecutors' offices. The courts send information about persons found guilty of crimes and recidivism, while the correctional facilities deliver information about persons serving prison sentences. It is important to note that each of the judicial and security institutions collect their own statistics in a prescribed way and deliver ready-made information to Brå. The information is sent through central judicial and security institutions, for example the National Police Board, the Office of Prosecutor General and the National Courts Administrations (these institutions collect information from individual organizations at lower levels) and in different time spans. The statistical data are checked in Brå and then released.

Statistics about recorded offences are released about 10 days after the end of the month and they include all offences against the criminal code, and law on road traffic offences. This data is presented for all regions in Sweden and the national level. Every offence committed on a single occasion is recorded, even non-crimes. Each crime is represented by a four-digit code that shows juridical information (law article) and criminological information (object, procedure, place, etc.). Concerning persons found guilty of offences, there are sometimes problems with extended sentences, and only the major crime is reported. In some cases, courts do not have statistical information about male and female offenders.

Preliminary statistics are presented monthly on the Internet, but only for recorded offences. There are semi-annual preliminary statistics of recorded offences, cleared-up offences, which are posted on the Internet and in a report, while yearly statistics are final and definite, they included recorded offences, cleared-up offences, suspected persons, persons found guilty of offences, recidivism statistics and are published in a report and on the Internet. The web site of Crime Statistics contains tables of statistics which can be used for analysis and forecasts. There are even tools for forecasting. The web site also features texts and "statistics school" for help with interpreting of statistics. Specific publications are published by Brå too, on crime statistics, narcotic drug statistics, hate crimes, young people and crime, and the Swedish Crime Survey. Most of these have been commissioned by the Swedish Government as particular areas of interest.

The statistical information is used by the judicial system, schools and universities for research, media, and the public. The statistics are used very much by other departments of Brå too. However, a very telling example about the use of statistics is the government policy on hate crimes. Namely, even before Brå has taken over official crime statistics, the Swedish government introduced stiffer sentencing clause in the criminal code for hate crimes in 1994 based on statistical data suggesting increase of this type crime. Since that time, the government and the justice system have prioritised highly fight against these crimes. However, since police do not record hate crimes specifically, in 2006 around 30,000 police reports were selected and reviewed for key words and assessed - 10 per cent turned out to be hate crimes. Based on statistics, a number of conclusions could be drawn on hate crime. For example, it was concluded that hate crime does not occur in specific places, but can occur equally in victim's own home as outside. It was also concluded that this is more common at workplace or in school than in a pub or a nightclub. Most common relationship is that victim has no knowledge about the perpetrator, in every third case the perpetrator is a known neighbour, a work colleague, a friend from school, or known by name or appearance, It is uncommon that the perpetrator and the victim have a close relationship. It was concluded that 78 per cent of perpetrators were men, with higher age among those with Islamophobic motives (age 33) and younger with anti-Semitic motive (age 22).<sup>101</sup> This is the type of information that can be used for analysis of background of crimes and polices to fight this particular type of crime.

<sup>101</sup> National Council of Crime Prevention. (Not dated). PPT on the Swedish Statistics on Crime. Not published.

## 4. The Local Crime Prevention Division

Apart from being primarily a research institution, the Swedish Council for Crime Prevention has lately emphasized its priority of local crime prevention work, which assumes a role of the Council in stimulating local crime prevention work through collaboration with other authorities, in providing information on crime prevention work, including practical methods for local crime prevention based on research and experiences from other countries, in ensuring that the need for specialist training of local crime prevention councils is met, and in monitoring and evaluating a number of local crime prevention projects through “increased inter-action between research and practice” and for “a systematic build-up of knowledge”.<sup>102</sup> The role of the Council’s division in relation to local councils<sup>103</sup> is mostly that of capacity-building. Namely, the Council’s research is used for devising of local prevention programmes and as support for projects that mobilize a number of different actors in crime prevention and leave a base of knowledge of different preventative methods. The Council funds local projects on application, with the main purpose being developing knowledge of what works and does not work in preventing and combating crimes and crime-related problems.<sup>104</sup> For purposes of helping local councils in their work, the Council publishes best practice manuals based on information from Swedish municipalities. These, for example, include manuals on assessing local crime problems and resources available, local collaboration between criminal justice and other institutions in prevention of relapse among persistent offenders, the concept of Neighbourhood Watch, crime prognosis, reduction of violence against women, vehicle crime, graffiti, and overview of international crime prevention projects, etc.<sup>105</sup>

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<sup>102</sup> Ministry of Justice of Sweden. (1997). *Our Collective Responsibility. A National Programme for Crime Prevention*. (BRA-report 1997:1), pp. 58.

<sup>103</sup> Local crime prevention councils consist of representatives of local administration, police, schools, social welfare services, businesses and other organizations that wish to engage in local crime prevention initiatives. National Council for Crime Prevention of Sweden. (2005). *Community Involvement in Crime Prevention. A National Report from Sweden*. Ministry of Justice of Sweden, p. 49.

<sup>104</sup> National Council for Crime Prevention of Sweden. (2005). *Community Involvement in Crime Prevention. A National Report from Sweden*. Ministry of Justice of Sweden., p. 7.

<sup>105</sup> National Council for Crime Prevention of Sweden. (2005). *Community Involvement in Crime Prevention. A National Report from Sweden*. Ministry of Justice of Sweden., p. 9-11.



## APPENDIX 2 Case study:

### British criminal justice research, evaluation and statistics institutions<sup>106</sup>

The example of research, evaluation and statistics in the criminal justice system of England and Wales differs greatly from the research, evaluation and statistics mechanism in Sweden. The aim of using this example is to show how different models of criminal justice research, evaluation and statistics can be exploited as policy options of different governments, and help policy-makers of Bosnia and Herzegovina decide for which model they should opt in order to comply best with the local context and circumstances.

Unlike the Swedish National Council for Crime Prevention, which is a single research institution in charge of a series of criminological research tasks, England and Wales have at least four research mechanisms in the criminal justice field. These are divided into those administered by the Home Office, which is concerned with "offending", and the Ministry of Justice, which is concerned with "offenders".

#### Ministry of Justice Research, Development and Statistics

The Ministry of Justice is a large institution with 13 departments and a number of units within each department. The RDS (Research, Development and Statistics) department used to be based only in the Home Office and used to cover areas of responsibility of both ministries, which was changed with a recent split into the two institutions. In this sense, the Ministry of Justice RDS works only on issues related to criminal justice institutions under its jurisdiction, namely Her Majesty's Court Service, Her Majesty's Prison Service, and the National Offender Management Service. The research conducted by this Ministry, or its individual departments, comprises statistical research and qualitative research. Both are accompanied with provisions for the public consultation process on policy changes proposed as a result of research, and publications of new policies or policy changes.

For example, this office publishes detailed monthly statistics about the prison population and prison population projections (produced by National Statistics in cooperation with the RDS Directorate), and the data is snatched from the prison IT systems. This provides a clear picture of the situation at hand and forecasts for purposes of planning. More concretely, the monthly statistical reports contain information about remand population by offence group with bi-annual comparison, immediate custodial sentenced population by offence group with bi-annual comparison (does not include fine defaulters), the number of adult prison population, break-down by sex, number of juvenile prison population and young, breakdown by type and length of sentences, number of non-criminal prisoners, total male and female prison population by individual prison institutions.

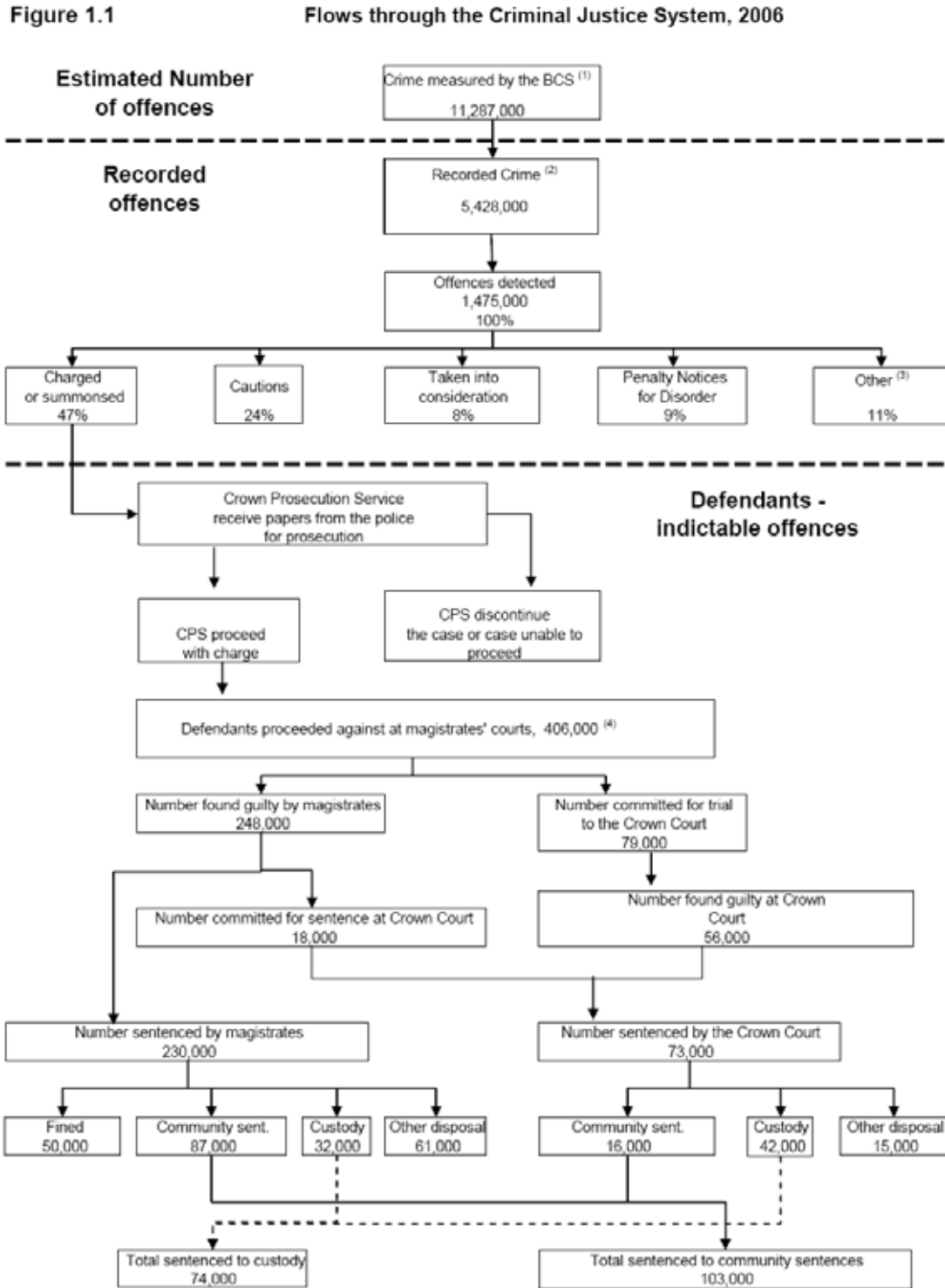
The Ministry of Justice also publishes courts statistics of crime, which is compared with the Home Office recorded crime statistics and the British Crime Survey conducted by the Home Office. The results of this very detailed analysis of number and breakdown of offenders by type of offence, stage in criminal procedure, and ultimate penalty, can be seen in the following diagram, comparing the number of estimated offences, recorded offences, and persons convicted for offences (see Figure 1.1) Other reports constitute more information about sentencing practices of courts, and even "Local Variations in Sentencing in England and Wales",<sup>107</sup> an example which can be directly applicable to the Bosnian context, which is experiencing lack of harmonization of court practices. Apart from these, more overarching statistical reports, the Ministry of Justice also carries out more specific criminological research, for example the research on Women and the Criminal Justice System, Race and the Criminal Justice System, etc.<sup>108</sup>

<sup>106</sup> Information obtained during a study visit to the Home Office, Law Commission and the Office for Criminal Justice Reform, and through interviews with heads of departments and employees of these institutions.

<sup>107</sup> Ministry of Justice. (2007). Local Variations in Sentencing in England and Wales. Retrieved on February 16, 2008 from <http://www.justice.gov.uk/docs/local-variation-sentencing-1207.pdf>.

<sup>108</sup> See Ministry of Justice web page <http://www.justice.gov.uk/publications/statistics.htm>, retrieved February 22, 2008.

Figure 1  
Flows through the criminal justice system, England and Wales, 2006<sup>109</sup>



<sup>109</sup> Ministry of Justice. (2007.) Criminal Statistics 2006, England and Wales. (National Statistics, November 2007), p. 5. Retrieved on February 22, 2008 from <http://www.justice.gov.uk/docs/crim-stats-2006-tag.pdf>.



Apart from the quantitative research, the Ministry of Justice staff and contractors conduct qualitative research too. This is research on quality of certain policies and practices, and their evaluation. For example, the most recent reports are concerned with the effectiveness of Local Criminal Justice Boards, investigating characteristics of high-performing local boards for identification of good practices for purposes of dissemination among other local boards. Also, some of the recent research projects focused on the extent and value of *pro bono* work provided by legal executives. A special part of research is dedicated to evaluation of work of institutions and organizations, for example the evaluation in October 2007 of the North Liverpool Community Justice Centre, "a one-stop shop for tackling crime, using a problem-solving approach with offenders, and delivering preventative and support services for the wider community." The evaluation comprised research with offenders, victims and witnesses, and other groups to assess impact."<sup>110</sup>

All research projects, which are identified as priorities by policy-makers and professionals in the Ministry of Justice, are generally contracted out to sub-contractors, consultancy companies, policy research organizations, universities and academics, unlike in the Swedish National Council for Crime Prevention. The research is used for creation of policies by different departments of the Ministry of Justice. For example, the prison-related research has resulted in a Prison Policy Update emphasizing the priorities of building new prison places; prevention of re-offending; work, employment and training of prisoners; control over supply of drugs in prisons, introducing alternatives to custody, and improving health of persons subject to the criminal justice system, all through sets of concrete measures.<sup>111</sup>

### Home Office Research, Development and Statistics

The other part of the RDS in the criminal justice system of England and Wales is based in the Home Office, in the Research Development and Statistics (RDS) Directorate. This directorate "provides information that helps Ministers and policy makers make evidence-based decisions, and that also helps the police, probation service, the courts and immigration officials to do their jobs as effectively as possible".<sup>112</sup> They also maintain various statistical services published by the Home Office, commission research and carry out research themselves. In sum, the research aims to answer the questions about: what drives crime, how is crime tackled by police, what is quality and effectiveness of policies in place, their economic feasibility, and what is the picture, or the trends of crime?

The RDS Directorate of the Home Office is divided into five units: Policing Statistics, Crime Survey, Drugs and Alcohol Crime, Organized Crime and Counter-Terrorism, and Regional Research units. From interviews with representatives of these units, it became evident that the topics for qualitative research are selected by policy makers, mostly in line with the Public Service Agreements<sup>113</sup> and the Home Office Strategy 2008-11 "Working Together to Protect the Public", and entrusted with the RDS Directorate. Research often constitutes evaluation of newly introduced practices. One of the current tasks in this sense is evaluation of effectiveness of a pilot project for treatment of persons who committed criminal acts as a result of drunken state, alcoholism, or use of other substances. This research is conducted by use of various methods, according to interviewees, which comprise inspection of re-offending rates, comparisons between those offenders who have been through the scheme and those who have not, interviews, focus groups, etc. Some of the other research projects conducted by this department comprise situational reports,<sup>114</sup> such as The Illicit Drug Trade in the United Kingdom, Seasonality in Recorded Crime, reports on evaluation of practices or programmes, such as Investigating and

<sup>110</sup> Ministry of Justice. (2007). Evaluation of the North Liverpool Community Justice Centre. (Ministry of Justice Research Series 12/07), p. i. Retrieved on February 22, 2008 from <http://www.justice.gov.uk/docs/liverpool-full-report.pdf>.

<sup>111</sup> Ministry of Justice. (2008). Prison Policy Update - Briefing Paper. (MOJ 04/08). Retrieved on February 22, 2008 from <http://www.justice.gov.uk/publications/prison-policy-update.htm>.

<sup>112</sup> Home Office RDS Directorate home page <http://www.homeoffice.gov.uk/rds/>, retrieved on November 30, 2007.

<sup>113</sup> Key priority outcomes the Government wishes to achieve over a certain period of time in identified sectors.

<sup>114</sup> On-line RDS publications. Retrieved on February 19, 2008 from <http://www.homeoffice.gov.uk/rds/onlinepubs1.html>.

<sup>115</sup> Ibid.

<sup>116</sup> Flanagan, Sir R. (2008). *The review of policing. The final report.* (ISBN 978-1-84726-577-7), p.1.

<sup>117</sup> On-line RDS publications. Retrieved on February 19, 2008 from <http://www.homeoffice.gov.uk/rds/dprpubs1.html>.

Detecting Recorded Offences of Rape focusing on eight local police forces' practices, or An Impact Assessment of Profiling and Other Priority Offender Programme,<sup>115</sup> as previous research indicated that a small number of offenders are responsible for a disproportionate amount of all crime, evaluation of institutions,<sup>116</sup> for example the Review of Policing from 2007 highlighting for the Home Secretary "the importance of reducing unnecessary bureaucracy in policing and embedding Neighbourhood Policing", research on the economic, social and emotional cost of crime, and the so-called development and practice reports,<sup>117</sup> which use research to draw out messages for practice development, implementation and operation, e.g. Practical Lessons for Involving the Community in Crime and Disorder Problem-Solving, Tackling Domestic Violence: the Role of Health Professionals, or Approaches to Intelligence-Led Vehicle Crime Reduction.

Most of the research is commissioned from academics, universities or consultants, and only limited amount of research is conducted within the institution itself. Not all research, however, is published, as reports do not always meet the high quality standards. Still, most are used for policy recommendations, with reserve that not all would be endorsed by the policy makers. The research is independent, it does not always match the policy-makers' wishes, which can cause some natural friction between the researchers and them. However, interim reports are presented, as usual practice, in order to avoid unnecessary surprises.

Another part of the Home Office research is focused on quantitative research and surveys - namely the official crime statistics of recorded crime and the British Crime Survey. Both surveys are published together (produced by different units), despite the fact that they do not say the same thing. However, according to representative of the Crime Survey unit interviewed, the two surveys are becoming more similar in results, as the National Crime Recording Standards have become more victim-based, which is the primary feature of the British Crime Survey itself, while the crime reporting rates have increased too.

The police statistics constitute the major part of the Home Office RDS work. This was not always the case, as social research used to share the research space with the crime statistics, according to Home Office RDS representatives interviewed, but the focus was changed by the Labour Government in the second mandate and switched more to quick reaction research based on policy-makers' directives, with not too much room for independent selection of topics and more detailed and long-term research.

The police statistics are collected monthly from 370 local police areas on recorded offences, but this practice will soon be abandoned with introduced of the Home Office central hub, into which all police information will directly be fed. The information reported in the regular Home Office Statistical Bulletin on crime includes: extent of crime, trends in crime, extent and trends in drug use and offences, extent of repeat victimization, trends in repeat victimization, multiple victimization, violent and sexual crime (including violence against person, sexual offences, robbery, risks of becoming a victim of violent crime, injuries and violence, offences involving weapons, influence of alcohol and drugs), property crime, public perceptions of crime, and geographic patterns of crime.<sup>118</sup> Apart from the regular bulletins, the Police Statistics unit is able to produce more targeted reports, based on the information they collect regularly. For example, in the case of homicide, the statistical report contained information about homicide offences recorded from 1954 to 2006/07. The report identifies the difference in definition of homicide by the police and the court verdict, and presents the data accordingly. The initial part of the report is concerned with victims, in line with changing focuses of criminological research

<sup>118</sup> Home Office. (2007). *Crime in England and Wales.* (Crown Copyright 2007 ISNN 1358-510X).





- the method of killing, sex of victim, relationship between victim and suspect, victims under the age of 16, circumstances of homicides, risks for different age groups. The next part of the report focuses on suspects, outlining the number of suspects, the outcome of criminal proceedings of all suspects, number of persons convicted for homicide (and different sub-types of homicide), and the breakdown of suspects by type of homicide and court sentence by years. Apart from this concrete example of what statistical research tells us about homicide offenders, circumstances of homicide and victims of homicide, there are other examples of how statistics in the Home Office are used - for example, for monitoring of effects of new legislation. A specific example is measuring number of offences as a result of relaxed drinking licensing laws, which did not show increase of crime due to this relaxation.

All information about recorded crime is directly compared with results of the British Crime Survey (BCS), which is a victimization survey. The BCS helps to identify those most at risk of different types of crime, and this helps in the planning of crime prevention programmes. It also looks at people's attitudes to crime, such as how much they fear crime and what measures they take to avoid it. The BCS looks at people's attitudes to the Criminal Justice System, including the police and the courts. According to the interviewed representative of the BCS unit, this unit organizes briefings for policy-makers on their findings, and says that their input is used for policy development, e.g. development of programmes for prevention of vehicle theft by identified places where vehicles are at biggest risk. It has also been stressed that the BCS is one of the key measures for policy success, or lack thereof, and is therefore used in various evaluations, not only by the Home Office, but by other government departments. More recently, the BCS unit has started to conduct a self-report offending survey, asking respondents if they have used drugs in the last year, reporting increase in the number of users.<sup>119</sup>

### Law Commission

Another institution in the justice field of England and Wales, under the auspices of the Ministry of Justice, is the Law Commission, established by the Law Commissions Act of 1965. This body can also be considered a research body, though with a different specific task in relation to policy-making - making sure that the law is "fair, modern, simple and cost-effective as possible," conducting "research and consultations in order to make recommendations to the Parliament that will attract the widest measure of support," and "codify[ing] the law, eliminate[ing] anomalies, repeal[ing] obsolete and unnecessary statutes (statute law revision), and reduce[ing] and the number of separate statutes (consolidation)."<sup>120</sup> The Law Commission is a standing, statutory and independent body established under the Ministry of Justice, and it is concerned with different areas of law. Apart from other teams, it consists also of the Criminal Law Team under the Criminal Law Commissioner, who can be either an academic or a practitioner. The Criminal Law Team consists of the team leader, three lawyers and three research assistants.

The research programme of the Criminal Law team is devised every three years and the selection of legislation to be reviewed is proposed to the Lord Chancellor and the Ministerial Committee on the Law Commission by the Law Commission, based on consultations with justice and law professionals, government departments, and the general public, and the criteria of importance, suitability and resources. The Law Commission's proposals are very rarely rejected. However, the government may address the Commission with specific requests, but these do not in any way have to be accepted, leaving the Commission independent in making of this decision. The number of projects in one three-year programme is not more than three, which is thought to be the optimal number in terms of staff and time available.

<sup>119</sup> Home Office. (2007). *Crime in England and Wales*. (Crown Copyright 2007 ISBN 1358-510X), pp. 43.

<sup>120</sup> Law Commission. *Reforming the Law*. Retrieved on February 2, 2008 from <http://www.lawcom.gov.uk/about.htm#a>.

The methodology of research is common for all projects. After a topic is selected, a preparation consultation paper is written outlining the problem(s) with the current law, based on examination of the law by the Commission's lawyers and research assistants, as well as research into the comparative law (which is sometimes commissioned from British or other countries' academia). This consultation paper is based on empirical research also - examination of the case law, public opinion surveys, and the research usually takes around six months. Based on this research, setting out in detail the deficiencies of the legislation, and giving arguments for possible solutions, a consultation paper is issued with the definition of the problem, policy research and possible policy options. The distribution list is very long. The consultation aims are reaching as many interested individuals and organizations, institutions as possible, so it targets the legal profession, judiciary, police associations, the prison services, victims' groups, non-governmental organizations, other government departments, and other institutions depending on the topic, for example, psychiatric treatment facilities in the case of recent homicide law research, etc. The time allowed for consultation, carried out on-line or other forms of correspondence, is normally three to four months, and the response rate is said to be very good. After the comments arrive, they are analysed by the Criminal Law Team. The quantitative and qualitative arguments are taken into account and the team then decide which policy option to pursue. The agreed policy paper is sent to all commissioners of the Law Commission - as a peer review exercise, comments are sent back to the team, discussed, and the ultimate policy proposal defined. At this stage, the team write the final report with clear recommendations for legislation change, and submit it to the relevant Government department.

<sup>121</sup> Law Commission. (2006). *Murder, Manslaughter and Infanticide*. Project 6 of the Ninth Programme of Law Reform: Homicide. (Law Com No 304). Retrieved on February 23, 2008 from <http://www.lawcom.gov.uk/docs/lc304.pdf>.

<sup>122</sup> Law Commission. (2007). *Annual Report 2006-07*. (Law Com No 306), pp. 27.

<sup>123</sup> The empirical research mentioned comprised: age range of persons accused of infanticide, ethnic background of the accused, their marital status, the age range of victims, the venue of offence, the method of killing, the initial charges, jury trial, final verdicts, the range of sentences pronounced, presence of psychiatric reports in case files, diagnoses, medical opinions mentioning infanticide, as well as synopses of individual cases. The empirical research relied of data of the Home Office and the Crown Prosecution Service. This additionally demonstrates the importance of readily available data on general and specific issues, and easy searches by criminal justice professionals, for purposes of research. From Law Commission. (2006). *Murder, Manslaughter and Infanticide*. Project 6 of the Ninth Programme of Law Reform: Homicide. (Law Com No 304), pp. 192-209.

<sup>124</sup> Law Commission. (2007). *Annual Report 2006-07*. (Law Com No 306), pp. 27.

<sup>125</sup> Law Commission. (2007). *Annual Report 2006-07*. (Law Com No 306), pp. 28.

<sup>126</sup> Law Commission. (2007). *Annual Report 2006-07*. (Law Com No 306), pp. 55-63.

A more concrete example of research on a specific project is the recent research on homicide.<sup>121</sup> Namely, in 2004, the Law Commission reported that the law on murder in England and Wales "is a mess."<sup>122</sup> For this reason, thorough research and review of all aspects of the law were conducted, which included "socio-legal research" by two university professors, who conducted an analysis of 93 homicide cases dealt with by the courts in 1995 and 1996 with a view of identifying the defences that were being pleaded and to how individual defences were pleaded in combination with other defences. One professor conducted public surveys through interviews and focus groups on "mercy" killings, while another professor undertook an empirical study of convictions for infanticide and manslaughter convictions (by reasons of diminished responsibility) of biological mothers who had killed their children aged three years and under in the period 1989-2002.<sup>123</sup> As a result of this research and a consultation process, the Law Commission recommended that "instead of the current two-tier structure of general homicide offences, namely murder and manslaughter, there should be a three-tier structure: first degree murder (mandatory life sentence), second degree murder (discretionary life sentence), and manslaughter (discretionary life sentence),"<sup>124</sup> while the offence/defence of infanticide should be retained without amendment<sup>125</sup> (instead of other options recommending either abolition of infanticide or a radical overhaul of the existing offence/defence).

The final reports, which can sometimes contain draft laws, represent the view of the Law Commission, which is frequently discussed with the Parliamentary Counsel early on, but after the report is sent to the Government, it is then up to Government whether to implement the recommendations or not. Despite the fact that many of the Law Commission's recommendations were in fact implemented, (e.g. in the Domestic Violence, Crime and Victims Act 2004, the Criminal Justice Act 2003, the Serious Crime Bill 2007, Corporate Manslaughter and Corporate Homicide Bill 2006),<sup>126</sup> some recommendations were never implemented. For example, the 1993 report on non-fatal assault and the accompanying draft bill, and the 1998 report on



bribery and a draft bill, were considered, not rejected, but never implemented by the Government<sup>127</sup> - the reply to the Law Commission was that there would be further consideration of the report. This is another reflection of the independence of research conducted by the Law Commission.

### **Office for Criminal Justice Reform**

The Office of the Criminal Justice Reform is another justice institution in Great Britain, which is, however, not primarily a research institution, but can serve as good example of coordinated efforts of all actors in the criminal justice system to achieve common goals. In the case of the Office for Criminal Justice Reform, the goals are those established by the National Criminal Justice Board<sup>128</sup> - improving effectiveness and efficiency of the Criminal Justice System (CJS) in bringing offences to justice; increasing public confidence in the fairness and effectiveness of the CJS; increasing victim satisfaction with the police, and victim and witness satisfaction with the CJS; consistently collecting, analysing and using good quality ethnicity data to identify and address race disproportionality in the CJS; and increasing the recovery of criminal assets by recovering £250m of assets acquired through crime by 2009-10.<sup>129</sup> The Office of the Criminal Justice Reform, which is a trilateral body consisting of representatives of the Home Office, Ministry of Justice and the Attorney General's Office, is in charge facilitating work of Local Criminal Justice Boards which consist of representatives of local police, prosecution service, courts, probation service, prison service, victims' organizations, and youth offending organizations, in all areas of England and Wales to work in a joined-up way,<sup>130</sup> just like the National Board, for avoiding of risk of isolated work, diverging and inconsistent practices of individual players in the criminal justice field. Each of the local boards has specific goals, such as support to victims and witnesses, piloting virtual trials, studying effects conditional cautioning by police, all for purposes of joined-up fight against crime.<sup>131</sup> This model can serve as an example of coordinated work and holistic approach to work by criminal justice institutions.

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<sup>127</sup> Ibid.

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<sup>128</sup> Comprising Home Secretary, Justice Secretary, Attorney General, junior ministers, officials of the Crown Prosecution Service, HM Courts Service, National Offender Management Service, Association of Chief Police Officers, National Police Improvement Agency, Office for Criminal Justice Reform, youth Justice Board, Legal Services Commission, representatives of the Prime Minister and Treasury.

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<sup>129</sup> Criminal Justice System for England and Wales. National Criminal Justice Board's Vision. Retrieved on February 22, 2008 from [http://www.cjsonline.gov.uk/the\\_cjs/aims\\_and\\_objectives/index.html](http://www.cjsonline.gov.uk/the_cjs/aims_and_objectives/index.html).

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<sup>130</sup> Local Criminal Justice Boards. Retrieved on February 22, 2008 from <http://lcjb.cjsonline.gov.uk/>.

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<sup>131</sup> Ibid.

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