



From May 7 to May 17, Fair and Just Prosecution and over 20 prosecutor leaders from across the US are traveling through Germany and Portugal to explore international models and innovative strategies to reduce incarceration, prevent crime, and strengthen communities. We're sharing some of what we learn on [Facebook](#) and [Twitter](#) and via this short "FJP On the Road" blog series. Stay tuned to learn more.

In the wake of World War II, poverty, trauma and lack of parental guidance brought a generation of orphaned children into contact with the German justice system. The justice system made a choice to respond with compassion – and today, Germany offers a model of how the US can rethink juvenile and young adult justice.

This week, we had the opportunity to not only observe Youth Court proceedings, but also speak with judges, prosecutors, service providers and youth police about their work with juveniles and young adults.



Treating kids like kids

Considerable sociological and neurological research has demonstrated adolescents and young adults have distinct developmental needs – and it's simply not appropriate to judge their behavior by the same standards we judge mature adults. Adolescents and young adults are more attracted to risk-seeking behavior. They also struggle to regulate their emotions, are more susceptible to peer pressure, stress and excitement and are more likely to resist authority. Even when they understand the risks of certain behavior, young people have a diminished capacity for self-control. But young people also tend to naturally age out of criminal conduct, and “adult” routines and roles, such as marriage and stable employment, are associated with aging out of criminal behavior. Conversely, confining young people tends to increase their chances of recidivism. As such, it's particularly critical for the justice system to treat kids like kids and offer young people second chances and a pathway to opportunity.

In recognition of this research, in Germany, children can't ever be prosecuted for acts committed before age 14 or tried as adults for acts committed before age 18. When an intervention is necessary for children younger than 14, the case may be referred to the youth welfare system. Based on a recognition that young adults share many of the characteristics of those who are under 18, German juvenile courts have had jurisdiction over 18- 19- and 20-year-olds since 1953.



For young people 18-21 at the time of the offense, the court has discretion to apply either juvenile or adult sanctions – and the German approach to making that decision is almost completely opposite to that in the US. German courts *don't* make the decision about whether to treat a young adult as a juvenile or an adult based on the seriousness of the offense. Instead, a German court applies juvenile law if either (a) “at the time of committing the crime the young adult in his moral and psychological development was like a juvenile” (for example, if the young person has not completed schooling, does not support him or herself, or lives with parents), or (b) “the motives and the circumstances of the offence are those of a typically juvenile crime” (for example, if it was an impulsive offense committed with peers). In other words, the factors used to determine whether to treat a young person as a juvenile or an adult are directly tied to the reasons why the juvenile system exists at all. Minor offenses are more likely to be handled under adult law and resolved with fines. However the vast majority (*more than 90 percent*) of young adults who engage in *serious offenses* – such as murder, rape and robbery – are sentenced under *juvenile* law because German courts view it as beneficial to society to keep these young people in the more rehabilitative juvenile system, where greater positive strides are possible.

In short, Germany tempers accountability with science and compassion. Many of the inspiring leaders we're traveling with have already begun to adopt and advocate for new approaches to juveniles and young adults. Germany's lessons offer valuable examples of how to go a step further.

Next week, we're headed to Lisbon, Portugal to explore drug decriminalization and harm reduction approaches – stay tuned for updates.