"FoKuS" - For optimised Control and Security

Volker Horstmann, Criminal Judge, Rostock

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania

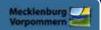


SAIPPUAKAUPPIAS

(World's longest one-word-palindrome)

(Soap Dealer)

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



"FoKuS" - For optimised Control and Security

Joint Administrative Act of the Ministry of Justice and the Ministry for Internal Affairs, 2010/2012

Concept for supervising sexual and violent offenders with high risk of recidivism in Mecklenburg-Western Pomerania

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



"FoKuS" – connected concepts in all Federal Countries:

- K.U.R.S. (Lower Saxony, North Rhine-Westphalia)
- HEADS (Bavaria, Brandenburg, Bremen)
- KSKS (Schleswig-Holstein)
- VISIER (Rhineland-Palatinate)
- ARGUS (Hesse)
- SURE (Hamburg)
- ISIS (Saxony)



"FoKuS"

Cooperation of

Justice

and

Police

- Central Supervising Authority
- Courts of Execution Penal Sent.
- Procuratorial
- Social Services (Probation-Office)
- Penal Institutions
- (Juvenile Detention Centers)
- (Forensic Ambulant Services)
- State Office of Criminal Investigation
- District Offices
- "FoKuS"- Officers
- Local Police Stations

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



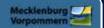
Target Group - Offenders under Supervision by Law (§§ 67d, 68f)

because of

- Sexual Crime
- Murder, Manslaughter
- Intentional crime causing death
- or one of these crimes in an (accusable)
 intoxicated state of mind (alcohol or drugs)

(not involved: causing grievous bodily harm or by dangerous means / aggravated robbery / taking hostages / abduction for the purpose of blackmail / additionally aggravated arson)

- Special Case: Electronic Monitoring



Target Group - Reason for Supervision

Main Case Group:
serving full sentence of imprisonment
(§ 68f StGB)
at least 2 years
sexual offenders at least 1 year

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania

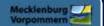


Target Group - Reason for Supervision

Completed <u>Custodial</u> Measure of Rehabilitation and Incapacitation:

- Detention for the purpose of incapacitation, § 66 StGB
- Mental hospital order, § 63 StGB
- Custodial addiction treatment order, § 64 StGB

Exception: the measure is suspended for an operational probationary period (§ 67 d II StGB)



Supervision – <u>ambulant</u> Measure of Rehabilitation and Incapacitation, §§ 68 ff

- in contrast to custodial measures (§§ 63, 66, 64)

Offenders with high risk of recidivism (bad criminal prognosis)

- after serving full sentence of more than 2 years (sex. Off. 1 year)
- after ending up custodial measures (often without success), (§§ 67d, 67b)
 - in contrast to conditional early release from prison (§ 57)
 - suspended sentences of imprisonment (§

56)

Special case of supervision: suspended cust. measure (§ 67d II)

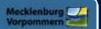
(good criminal prognosis)

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



Supervision – Duration (§ 68c)

- Regularly 5 years (can be shortened down to 2 years)
- Exceptionally indeterminate supervising possible, if
 - offender does not comply with directive to undergo medical treatment of an invasive nature or treatment for addiction (or violates such direction)
 - after suspension of mental hospital order offender lapses into state of §§ 20,21
 - a <u>qualified</u> violent or sexual offender <u>violates directions (§ 68b) or other</u> facts <u>concerning this offender give</u> reason to believe that there may be danger to the general public by the commission of further serious crime



Supervision – Orders (§ 68b I Nr. 1-12)

- 1. not to leave residence without permission,
- 2. not to frequent specified places
- 3. not to make or maintain contact with the victim or certain persons
- 4. not to engage in particular activities
- 5. not to possess particular objects
- 6. not to possess or drive motor-vehicles
- 7. to present oneself at particular times (to the supervising authority, to another public authority or) to the probation officer;
- 8. to report promptly every change of residence or employment to the supervising authority

Since 2007/2011:

- 10. not to consume alcohol or other drugs and to undergo tests of a non-invasive nature
- 11. to present oneself at certain times to a doctor, a psychotherapist or the forensic ambulant service
- 12. to wear Electronic-Monitoring-equipment and keep it in service

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



Supervising – Orders (§ 68b I Nr. 1-12)

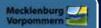
§ 145a StGB

Violating the directions of a supervision order

Whosoever violates a particular direction as indicated in § 68b (1) during the operational period of a supervision order and thereby endangers the objective of the measure, shall be liable to imprisonment not exceeding three years or a fine.

The offence may only be prosecuted upon the request of the supervising authority (§ 68a).

If a person has been sentenced to a term of <u>imprisonment of not</u> <u>less than two years</u>, the court can make an <u>incapacitation order</u> in addition to the term of imprisonment (§ 66 I Nr. 3)



FoKuS Phase 1 – <u>before</u> release:

Penal Institution

- at least three month before the expected release:
 - Statement to the **prosecurial** concerning question of supervision and proposed directions
 - Information of the responsible probation officer after release

Prosecurial

- applies for the decision of the Court of Execution immediately
- sends a copy of the request to the supervision authority

Supervision Authority

- informs the State Office of Criminal Investigation with a copy of the request

State Office of Criminal Investigation

- informs the police district office
- informs the **supervision authority** about **policedistrict office** in charge

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



FoKuS Phase 2 - the court's decision:

Court of Execution Penal Sentence

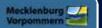
- Decision concerning supervision (duration, directions)
- sends a copy of the decision to the supervision authority

Supervision Authority

- sends copy of the court decision to the **State Office of Criminal Investigation**
- requests police monitoring (§ 463a StPO) by entering the case in INPOL
- informs the **police** about responsible **probation officer** and his reachability
- authorizes the **police**to directly contact the **probation officer** in case of violation of directions and recidivism
- sends a copy of the court decision to the responsible **probation officer**

State Office of Criminal Investigation

- starts police monitoring as soon as possible by entering the case in INPOL
- informs the regional destrict office
- informs the supervision authority after entering the case in INPOL



FoKuS Phase 3 — Supervision Procedure

Social Services (Probation Officers)

 supports the offender and reports to the supervision authority concerning social situation and directions (InStar-Category 1: intensive intervention, personal contact at least every two weeks)

Police Office (destrict office/-station)

- police offices assist the supervision authority and the responsible probation officer in monitoring the convicted person, particularly with regard to imposed instructions
- "Warning to Endangerer" immediately after release in coordination with probation officer (regularly without uniform)
- inform supervision authority and probation officers about violations of directions and new offences
- if investigative reasons do not allow such information the police inspectorate instead promptly informs the competent **prosecution** in charge of the investigative proceedings.

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



FoKuS Phase 3 — Supervision Procedure

All Parties involved in the concept

- inform each other when the convicted person changes domicile or leaves the country or offenders from other countries visit or move to M-WP
- in this case the **police inspectorate** informs the **State Office of Criminal Investigation** to update INPOL
- can ask for a concerted case conference at any time
- are required to cooperate closely and trustfully and to promptly transfer obtained information to other parties if this is necessary to achieve the objective of the concept.



Special Case - Electronic Monitoring

Direction according to § 68 b I Nr. 12, III

Formal requirements:

- serving full sentence of imprisonment of at least 3 years or finished custodial measure
- because of serious crime according to § 66 III (Detention for the purpose of incapacitation)
- danger of new serious offences, particularly of a kind resulting in serious emotional trauma or physical injury to the victim
- EM necessary and appropriate (use of data, control directions § 68b Nr. 1,2) to prevent the offender from recidivism

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



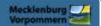
Special Case - Electronic Monitoring

Due to the consequences of EM (for the offender and the parties of the concept) it is necessary to have a **comprehensive assessment** about

- the personality of the convicted person and the danger that emanates from him/her
- and the possibilities and limits of EM in the concrete case

For this purpose: Mandatory Case Conference

- suggested by the penal institutions <u>6 months before release</u>
- prosecution invites all participants according to the concept



Special Case - Electronic Monitoring

Mandatory Case Conference – Fixed Participants with comprehensive knowledge about EM:

- Prosecution
- Penal Institution
- Central Supervision Authority
- Responsible Probation Officer
- Police (regularly presedium and local "Fokus" Officer)
- Psychologists of the penal institution
- Psychologists of the forensic ambulance service
- if necessary more participants

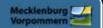
FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



Special Case – Electronic Monitoring

Mandatory Case Conference - Topic

- Risk Assissment
- particular attention should be paid to the conduct of the convicted person while in custody, his/her personality, his/her past history and the circumstances of his/her criminal offence and his/her situation after release
- Possibilities and limits of EM in the actual case
- If suggested fixed commitments concerning EM:
 - Exclusive Zones, Contact-directions, Warning-Zones and -times
 - Reactions of GÜL, Police (prepared by Supervising Authority)



Special Case - Electronic Monitoring

Monitoring Procedure

Supervision Authority responsible for implementation of EM

- Preperation of data heeds for GÜL/HZD (Central Monitoring Center in Hesse)
 concerning directions, the personal dangerousness of the offender and instructions in case of alarm for Police and GÜL, defined <u>prohibited zones</u> and warning-times
- ensures tighten of the equipment immediately with release from prison
- Purchase of equipment and cost regulation
- ensures service and exchange of equipment in case of technical problems

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



Special Case - Electronic Monitoring

Regularly only <u>collection and storage</u> of data for two months (§ 463a IV StPO) (No real-time - EM!)

Data use only

- 1. to proove a violation of an instruction pursuant to § 68b I Nr. 1, 2, 12
- 2. to take supervisory measures that may follow from a violation of such instructions
- 3. to punish a violation of such instructions
- 4. to avert a significant present danger to the life, physical integrity, personal liberty or sexual self-determination of third parties
- 5. to prosecute a criminal offence of the kind mentioned in § 66 III

Only in alarm-cases GÜL/HZD enable the Police immediately to follow / find the offender by real-time-monitoring



German Criminal Code (StGB)

(http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb)

- suspended sentence, § 56
- conditional early release, §§ 57 ff
- measures of rehabilitation and incapacitation
 - Overview, § 61
 - mental hospital order, § 63
 - custodial addiction treatment order, §64
 - detention for the purpose of incapacitation, § 66
 - supervision order, §§ 67 ff, 68 ff (esp.: directions,§ 68b, durance, 68c)

The German Code of Criminal Procedure (stop)

(www.gesetze-im-internet.de/englisch_stpo/englisch_stpo)

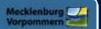
- Powers and Jurisdiction of the Supervisory Agencies, § 463a
 - may request information from all public authorities, order of police monitoring, Electronic Monitoring – data: collection, storage and use

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania



"Freedom is not the freedom to do what you like, it is the responsibility to do what you have to do."

Yehudi Menuhin



Contact

Volker Horstmann I Richter am Amtsgericht Amtsgericht Rostock Zochstraße 13, 18055 Rostock Fon:+49 – 381 / 4957-2109 (-3104) Fax:+49 – 381 / 4957-9142

volker.horstmann@ag-rostock.mv-justiz.de

FoKuS - Special Supervision for Sexual and Violent Offenders in Mecklenburg - Western Pomerania

