

The Bavarian State Minister of Justice

Dr. Winfried Bausback



Welcoming Address

by State Minister

Dr. Winfried Bausback

at the International Conference on

Psychology and Law

on **August 4, 2015**

in **Nuremberg**

Check Against Delivery

Ladies and Gentlemen!

Some of you may have heard of the **thriller "Primal Fear"** that dates back to 1996 and features Richard Gere playing star attorney Martin Vail.

He assumes the defense of the young altar boy Aaron Stampler played by Edward Norton, who is accused of having murdered the Archbishop of Chicago.

As the trial progresses, defender Vail finds out that Aaron obviously has a **split personality** and that his alter ego, Roy, committed the crime.

In the end, he manages to convince the jury of his client's innocence, saving him from being convicted of murder.

At the **very end of the movie**, Aaron Stampler betrays himself in a one-on-one with his defender, revealing that he **feigned his split personality**. And planned to kill the bishop in cold blood while being fully criminally liable.

Ladies and Gentlemen,

as absurd as the script may appear at first glance - **assessing the credibility of statements** and **evaluating the criminal liability** of offenders are issues that concern us in real life as well, presenting the fields of justice and psychology with huge challenges.

Your **conference on "current challenges for psychology and law"** really is a wonderful idea! After all, communication and exchange between the practitioners in these two fields, **psychology and law**, is more important than ever today.

It is above all in the field of justice that we **depend on the expertise of psychologists, psychiatrists and psychotherapists**. This holds true particularly for civil law, family law and penal law.

Let me highlight penal law once again. As jurists, we **often need psychological or psychiatric knowhow** when conducting preliminary investigations, which in Germany are carried out by the office of the public prosecutor.

Associated tasks include the **assessment of the credibility of witnesses**, which form the basis for deciding whether the proceedings are stopped or charges are filed.

However, preliminary investigation proceedings may also aim to determine whether an **offender** was **criminally liable only to a limited extent** or indeed **lacked all criminal liability**.

This brings me to a topic which has been keeping our legal policymakers occupied for a while. What I am referring to is the **reform of the right to place offenders** in a forensic psychiatric clinic.

The legislation affected is the order that can be issued against an individual who commits an offense in a state that proves that he or she acted without or with limited criminal liability. And who can be expected to commit further severe offenses due to his or her mental state, as set forth in **Section 63 of the German Penal Code**.

The court called upon to hand down a ruling requires a forensic-psychiatric factual basis to issue an **order to place someone in a forensic psychiatric care** and for the **annual review** that is performed to determine whether the placement is to continue.

It receives this information from appropriate experts and professional statements made by the psychiatric institutions.

What comes to bear here is what I mentioned in opening: The **quality of communication** between psychiatrists, psychotherapists and psychologists on the one hand and legal professionals on the other **is paramount to the quality of the court's decision.**

The experts and caregivers involved have to know what is relevant to the court in order for it to make its decision. The district attorneys and judges have to ask the right questions and understand and properly assess the answers provided by individuals who are not versed in matters of law.

Ladies and Gentlemen,

in the last two years, we in Bavaria have dedicated ourselves greatly to promoting this interdisciplinary dialogue.

Evidence of these efforts can be found in the **Convention on Penal Placement** that will be held here in Nuremberg in October.

We intend to use the conference as a forum for providing **information** on the new **Bavarian Forensic Psychiatric Treatment Order Act** as well as on the **new federal regulations** governing the order and enforcement of placements in psychiatric clinics.

However, we place paramount importance on dialogue and communication not only in theory, but also in practice.

To improve the **quality of court decisions to continue forensic psychiatric care** and, in turn, the **public's trust** in them, we have developed **standards** here in **Bavaria** that are applicable to expert opinions regarding forensic psychiatric institutions.

In so doing, it was important to us to bring the practitioners dealing with these issues on a daily basis together in **workshops**:

Physicians working in forensic clinics who prepare the expert opinions and the district attorneys and judges, who understand and evaluate them and have to draw their legal conclusions from them.

Everyone involved agreed that a **simple doctor's letter cannot provide a basis sufficient** for making a decision on continuing forensic psychiatric care.

Measures of this kind are simply too important with respect to basic rights and freedom.

Instead, the court needs to obtain **information** on the **course of the treatment** in the institution and on the **prospects of success**.

It needs to know the caregivers' assessment of the dangerousness of the committed individual and whether or under what circumstances they deem a release warranted.

These jointly developed "standards" make **Bavaria a trailblazer in Germany**—and we are campaigning for them to be adopted throughout Germany!

Ladies and Gentlemen,

especially in the field of penal law, **misjudgments** of the credibility of statements and the criminal liability of offenders can have **far-reaching ramifications**.

Those guilty as accused are not punished—as in the film "Primal Fear"—or the innocent are sentenced unjustly.

Therefore, you will also deal with matters of forensic and criminal psychology at the International Psychology and Law Convention, which will be flanked by topical issues such as terrorism and violence in schools.

I hope you all have lively discussions, gain a lot of new insight and have a wonderful time in Nuremberg!