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## Jurisprudence Section - 2015

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### **F1 A Study of More Than 400 Case Reports Between 2009 and 2014, Completed in the Venice Surveillance Court to Understand, Evaluate, and Investigate the Social Hazards on the Judicial Level of Subjects Convicted of a Crime**

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After attending this presentation, attendees will be able to distinguish what legal and scientific bases in Italy form the concept of social danger from a criminal (Article 203 of the Italian Penal Code: a dangerous person is one who, even if healthy or incompetent, has committed crimes and is likely to commit new crimes) by citing an unpublished study of 400 case-specific reports from 2009 through 2014 belonging to the largest surveillance court for social dangers in northern Italy: the Court of Venice.

This presentation will impact the forensic science community by informing attendees, through the cases studied, which scientific parameters (neuroscience and behavior) and jurisprudence present the criminal's personality and how the Tribunal of Venice works to understand, assess, and contain the danger presented by the offender.

From this study arises a new vision of social danger determined by a new protocol on the individual criminal by combining the results obtained on the progress of neurosciences with the personalities, the environment, and the history of the offender through the cases studied. In Italy, it is the Surveillance Court judge who acts on those convicted after the sentence is finalized and who decides on requests for alternative punishments to prison such as home detention, early release, and provisional custody to social services. It includes statistics on how a judge in Italy makes a prognosis as to the danger to society, both in terms of the risk of re-offending as well as the personality of the suspect. In this study, the alternative punishment requests have been correlated (probation with the social service, home detention, and parole) and the concept of "social danger" by an analysis covering a sample of people, mostly men of Italian and foreign nationalities. The average age is between 30 and 65 years old.

From the Court of Venice results, it is possible to say that the social danger, in cases of rejected requests for alternative measures to prison, is manifested by a complete absence of reflection on the part of the convicted person in regard to their crimes and behavior prior to the offense as well as lack of participation in social activities, violent conduct committed in prison demonstrating the presence of violent and aggressive personalities in some prisoners. The case studies seem to confirm the importance that the environment exerts on the criminal and this is also demonstrated in both neuroscientific studies and criminogenesis made on humans from a criminal anthropological perspective. In fact, the gene pool can be modified for "random variations" from which mutations can derive, "random changes" (genetic drift), and migration influx; therefore, mutations can be beneficial or detrimental and selection will favor the human ability to adapt and as such has influenced evolution of the adaptive formation of new alleles. In genetics, the study of some alleles has led to the understanding that there is a relationship between genetics and crimes through the examination of some neurotransmitters such as monoamines, including serotonin and dopamine, whose biological effects are regulated by enzymes such as Monoamine Oxidase A (MAOA), (MAOA-L allele), and Catechol-O-Methyl Transferase (COMT). These two alleles have determined a reduction of the penalty in two trials in Italy.<sup>1</sup> Serotonin regulates impulsive-aggressive behavior and its alterations are at the base of the aggressiveness; these alleles (including allele-s) determine a lower capacity for adaptation and therefore generate aggressive behavior. In addition to these concepts, the personality of the offender must be taken into consideration. Indeed, the environment originates the character of the offender as a result of temperament (hereditary biological matrix) and the environment where the criminal lives or has lived (including social and family environments) and this is judged by an Italian judge. Another criteria concerns the biology and structure of the brain influenced by environment and evolution. Granting house arrest (in other words, semi-liberty) to criminals has proven to the Surveillance Court of Venice to be the best method to limit social danger.

#### **Reference:**

1. Trial of Corte d'assise di appello di Trieste n. 5/2009 and Trial of Como, GIP, date 05.20. 2011.

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#### **Social Dangerousness, Criminal Law, Neuroscience**

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