Police cooperation and private security
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Aims and scope
The European Journal on Criminal Policy and Research is a platform for discussion and information exchange on the crime problem in Europe. Every issue concentrates on one central topic in the criminal field, incorporating different angles and perspectives. The editorial policy is on an invitational basis. The journal is at the same time policy-based and scientific, it is both informative and plural in its approach. The journal is of interest to researchers, policymakers and other parties that are involved in the crime problem in Europe.

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There are at least two good reasons to use the expression ‘going Dutch’ on the cover of this issue. In the first place, the decision has been made to locate a European coordination centre for police activities in The Hague in the Netherlands. In the second place, the philosophy of Europol to date has been confined to the coordination and cooperation of police forces of the sovereign states of the European union rather than to the development of an executive supranational police force like the American FBI.

The opening article by Rachel Woodward of the Leicester Centre for the Study of Public Order gives a full description of the origins and development of Europol. The story of Europol starts with the Trevi group which was established in 1976. A concrete impetus for establishing Europol came from the German Prime Minister, Herr Kohl in 1991. In tandem with the Trevi initiative to establish a European Drugs Intelligence Unit, a decision has been made to develop Europol in three stages progressing from a Europol Drugs Unit (EDU) to a European unit on organized crime in general. The author underlines the importance of Europol if harmonization of policing structures is perceived as necessary ‘on the basis of the understanding of the crime threat’.

Neil Walker (University of Edinburgh) discusses the accountability of European police institutions. He presents a critical overview of current accountability arrangements with respect to Interpol, Trevi, Schengen and Europol. Thereafter, he explains why these arrangements are so limited. This explanation draws among other factors, upon the marginal position of policing on the European agenda, the interests of the professional elite, the existence of alternative sources of legitimacy and various cultural characteristics of police organizations. The article examines how the accountability of policing institutions might be optimized.

The third article approaches European police cooperation differently, and establishes the necessity of dealing with crucial cultural values. European policing should – according to Simon Holdaway – not be guided solely by terms such as ‘efficiency and effectiveness’ or ‘quality control’. From this standpoint, the author
analyzes the development of management within the British police force. In his opinion, a strictly rational approach taken by police organizations will falter because 'practices may well be valued for and in themselves, irrespective of their contribution to the efficiency of the organization.'

Following this, J. Wilzing en F. Mangelaars of the Dutch Criminal Intelligence Division (CRI) give their opinion on the potential opportunities of police cooperation. The authors emphasize the threat posed by organized crime in Europe and give an inside view of the politics behind the establishment of Europol. In addition they describe the practical problems encountered when fighting international crime and the additional value of EDU/Europol in developing judicial expertise, criminal information registers and the quality of investigation information. They assess the political framework for Europol in relation to the practical needs and find it adequate as it now stands for the development of the Europol Convention by the Ad Hoc Group Europol.

Hans Bevers gives a detailed analysis of the legislation and practice of police observation in the Schengen countries (Germany, Belgium, France, Luxembourg and the Netherlands). The Schengen Convention provides a regulation on border-crossing by police officers during observation of a suspected criminal. The regulation (article 40) is ambiguous however. The author points out the discrepancies in legislation between the various Schengen countries. Germany in particular has a detailed and restrictive legislation on police observation. The author finds such an explicit regulation on police observation powers necessary, at least to bring some clarity when navigating between the individual right to privacy and the common interest of criminal investigation.

In the last article Frédéric Ocqueteau (Cesdip, Paris) deals with the problem of the legitimation of the private security sector in France. Contrary to general opinion, the author thinks that the development of the private security sector cannot be explained by the economics of supply and demand alone. It should be seen as a complementary resource that the state provides for its citizens. In Europe the security commerce has not yet threatened the legitimacy of the state as it already does in the United States. This serves to warn Europe that private security must remain secondary to community-based prevention strategies.

In the Varia section of this issue there is a second report on the crime situation in the Eastern European countries, namely in Hungary. One can also find an interesting evaluation of the police presence at the European Football Championships in Stockholm in 1992.
Establishing Europol

Rachel Woodward¹

‘Europol’ is an old idea. That is to say, the idea of a police force with intelligence gathering and perhaps operational powers across Europe and the European Community is not as new as many commentators say or think. Although the first proposal for Europol is often attributed to the German Chancellor, Helmut Kohl, with references to it in speeches and presentations made by him in 1991, in fact the idea which first gained prominence in 1991 ‘had already enjoyed a long and varied discursive career’ (Den Boer and Walker, 1993, p. 7). In 1987, for example, the Ministers of Justice and Internal Affairs were discussing a Danish proposal to develop a network of National Drugs Intelligence Units (NDIUs) to coordinate intelligence-gathering and dissemination of information on drug-trafficking and drug-related crime. In the 1980s the possibility of a European police agency had been discussed within ministerial and police groups in Germany (Cullen, 1992). In the second half of the 1970s, the establishment of the Trevi group of ministers has been viewed by some as a preliminary move crucial to the later proposals of a trans-European criminal intelligence agency, if not the establishment of a de facto European police force (Busch, 1993).

Prior to this, in the early 1970s the issue of a European police agency was raised during discussions about the role of Interpol (Fijnaut, 1991, p. 105).

This article will examine the origins and development of Europol. It presents the context within which Europol is located in the EC and in Trevi, looks at its establishment in the 1990s through a combination of Trevi and German initiatives, explains the work of the Project Group Europol currently located in Strasbourg and takes a brief look into the future at the proposals for Europol contained in the

¹ Centre for the Study of Public Order (CSPO), University of Leicester, 6 Salisbury Road, Leicester LE1 7QR, England. I would like to acknowledge the contribution made by my colleagues Lynne Turnbull, John Benyon, Andrew Willis and Mike King in the preparation of this article. I would also like to thank a number of respondents for their assistance in providing information and comments on Europol, particularly Clare Checksfield and Mara Goldstein of the Home Office and Peter Vowé and Neil Bailey of Project Group Europol.
Maastricht Treaty. It then goes on to discuss the benefits of Europol for tackling drug-related crime, assesses its impact so far on the organization of policing systems in Europe and mentions the benefits of the provisions under Maastricht. Finally, the criticisms that have been voiced about Europol are discussed, focusing on the supposed duplication of existing police efforts in the field of drug-related crime, and the questions that have been raised about the procedures for accountability of the new body. It concludes by raising the question of a possible operational capacity for Europol.

This research article draws upon the work carried out by a research team based at the Centre for the Study of Public Order (CSPO), University of Leicester. The team working on a project entitled 'Police, Crime & Justice in Europe' has undertaken research into the establishment of Europol as part of a wider examination into police organizations and police cooperation in Europe. Documentary sources consulted for this article include primary documentation and media archives. The material used is drawn mostly from the UK and it has only been possible at this stage to use material written in English. A number of interviews and discussions were held with key respondents with responsibility for planning Europol, including representatives at a senior level within the British Home Office, representatives from Interpol NCB in London, serving police officers with an interest in this area and representatives from Project Group Europol in Strasbourg.

It has become apparent to the research team that information on the development of Europol is relatively scarce, and that this information does not reach a wide audience. This is regrettable as the debate on Europol crystallizes a number of important issues relating to police cooperation in Europe, including questions of sovereignty, operational powers, duplication of efforts, the Schengen Agreement and the Schengen Information Service (which is not discussed here), Interpol, and the structure of the police forces in each member state of the European Community (EC). Europol’s establishment marks a decisive step towards the establishment of closely-structured police cooperation in Europe and the creation of a European police force (Franquet, 1992, p. 115). A primary aim of this discussion article is therefore to draw together much of the available information and commentary on Europol and present it in a coherent format, in order to contribute towards the debate on this important European policing development.
Establishing Europol

The story of Europol from its origins to the present

The context: establishment of the European Community

The Treaty of Rome, signed in March 1957 by Belgium, France, Luxembourg, the Netherlands, Italy and West Germany established the European Economic Community (EEC). It was later signed by Denmark, Ireland and the UK in 1973, Greece in 1981 and Spain and Portugal in 1986. These twelve countries are known as the member states of the European Community (EC). The Single European Act, which came into effect in 1987, extends the terms of the Treaty of Rome by providing for the freedom of movement of persons, capital, goods and services (article 8a). This was to be established by January 1, 1993, but in practice absolute freedom of movement has not materialized because of some countries’ reservations about the consequences of removing internal border controls.

The potential freedom of movement for people, goods, services and capital within the EC has raised alarm amongst senior police officers and others, who see opportunities for freedom of movement for criminals as well, and a resulting increase in crime rates in the EC countries. Although a massive upsurge in crime levels remains to be proven, governments and police forces within the EC have recognized the need to plan for policing the new Europe. This is the context in which the development of Europol is located.

Trevi and the origins of Europol

To understand the current and projected shape of Europol, we have to understand Trevi.2 Trevi is the name given to a group of senior government ministers, civil servants and police officers who, through their association on working groups and at intergovernmental summit meetings, exchange information and develop cooperative practices for policing in the EC. Trevi was established in the wake of a European Council Meeting in Rome 1975 and a meeting in June 1976 of Ministers of Justice and Internal Affairs in Luxembourg. Agreement was reached on establishing a formalized structure for police cooperation in the EEC, as it then was. This was to be undertaken on the basis of intergovernmental cooperation and would be outside the

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2 There is much debate over the origins of the name of this group. Some see Trevi as an acronym for Terrorism, Radicalism, Extremism and Violence International. This is denied by the UK Home Office who claim that the name derives from a pun on the names of a famous Roman fountain and the Chair of the first meeting, Mr. Fontejne.
competence of the Treaty of Rome.

The presidency of Trevi is held by the member state holding the ordinary EC presidency and the term likewise lasts six months, from January 1 or July 1 each year. The presidency has responsibility for organizing meetings of the Trevi ministers, which are held during the last month of the presidency (i.e. June and December) to discuss issues and decide policy. These meetings are attended by the Ministers of Internal Affairs of the twelve member states.

The Trevi Group of Senior Officials plays a key role in the work of Trevi. This group consists of delegations from each of the twelve EC member states, and each state is responsible for selecting personnel to attend these meetings. In the UK, the delegation is headed by a very senior civil servant from the Police Department of the Home Office, who is accompanied by other representatives from that department and by senior police officers, drawn mostly from the appropriate committees of ACPO (the British Association of Chief Police Officers), such as the International Affairs and Crime Committees. This group is responsible for preparing the agenda for the meetings of the Trevi ministers and coordinating the reports of the various working groups (see below) before they are presented to the ministers for decision. It has been suggested that the real power of Trevi, in determining its direction, lies with this group (Busch, 1993).

Trevi has a number of working groups which concentrate on specific areas of policing and cooperation. These working groups report to the Senior Officials. Working Group I was established on May 31, 1977 to exchange information on national and international terrorist activity. It coordinates the terrorist threat assessment and establishes a communication system for exchange of information on terrorism.

Working Group II was also established on May 31, 1977 and deals with the exchange of information on training, equipment, private security and public order. In the wake of the Heysel stadium tragedy in 1985, this group was tasked with the exchange of information and ideas on best practice with regard to football hooliganism. This group also coordinates Trevi seminars, for example, for heads of police training schools, heads of tactical support units and for police chiefs in charge of safety at international airports. It also discusses language training, and exchanges information and understandings about police structures and cultures in the member states.

Working Group III was established in Rome in June 1985 to deal with the exchange of information on serious crime. Primarily, it is concerned with drug-trafficking and organized crime, but it also deals with the exchange of information on computer crime, environmental crime, car crime, trafficking in stolen antiques and works of art,
money-laundering and crime analysis. Meetings of varying regularity are held under the umbrella of this working group. For example, environmental crime was discussed at a meeting of experts and police officers with responsibility for this issue at Wiesbaden, February 1993.

A fourth working group, Trevi 1992, was established in Athens on December 9, 1988 to examine policing and the national security consequences of reducing or abolishing border controls within the EC, and to suggest compensatory measures for this. This working group was responsible for the drafting of the 1990 Trevi Programme of Action, which deals with areas for cooperation between police and security services and methods for its implementation (Trevi, 1990). Trevi WG 1992 has now been suspended after a decision taken during the UK’s presidency of the EC (and Trevi), on the grounds that it had achieved many of its original objectives. Any remaining responsibilities and functions have been passed to Working Group III. 3

To summarize, Trevi provides an important arena for Interior Ministers and senior police officers in which to establish cooperative practices and to exchange information. It is an intergovernmental body, which functions purely as a group of representatives from member states of the EC, and into which the EC Commission has no direct powers of input. Importantly for this discussion, it is accountable only to government ministers. National legislation for each member state provides for the dissemination of information about this group from ministers to national parliaments and beyond. In practice, in the UK, the dissemination of information is restricted, and this, coupled with what many police officers would see as a natural reluctance to divulge information on operational matters, has raised many criticisms of Trevi’s secrecy. Supporters would perhaps term this ‘privacy’ as a prerequisite for flexibility of operations in a sensitive area. Opponents criticize the secrecy and, in the absence of detailed information about this group, fret about the civil liberties implications of the secret Trevi discussions.

The establishment of Europol in the 1990s

The origins of Europol lie in many places. Current debates have tended to overlook the fact that for the past two decades there has been discussion in police circles about a possible European police agency. These ideas emerged most often in discussions about Interpol, the International Criminal Police Organization and in particular criticisms of Interpol’s inefficiency. For example, Fijnaut (1987, pp. 37-38) notes that at a 1974 meeting of the Bund Deutscher

3 Interview with UK Home Office representatives, April 6, 1993.
Kriminalbeamter (German CID Officers’ Association), discussion took place about possible changes to the role of Interpol and the possible development of a European policing office. Debates at this time recognized the major changes this would involve, including the harmonization of criminal law and standardization of European policing systems. These were of course speculative debates, but although no ‘Europol’ appeared as a result, they are important in marking the origins of an idea which continued to circulate over the next fifteen years. Available sources suggest that, in the main, the idea was squashed by most senior police commentators. As Sir Peter Imbert, a former Metropolitan Police Commissioner noted in 1989: ‘The time is not right to consider a European Police Force – and those who are currently advocating it are perhaps expecting us to run before we have shown we can walk’ (Sir Peter Imbert, former Metropolitan Police Commissioner, quoted in The Job, 1989).

Yet two years later the notion of a European Police Force was back on the agenda as a result of an initiative by Helmut Kohl. This initiative is the first of two strands of action which have led to the development of Europol.

Kohl’s initiative: a European FBI?

It is perhaps fitting that a decisive push towards the establishment of a European intelligence agency should come from Germany, the nation that has been at the forefront of the development of the EC. A founding member, and one of the six original signatories to the Treaty of Rome, Germany has been, and will continue to be economically, socially, politically and geographically crucial to the form and function of the EC.

In May 1991 in Edinburgh, Kohl stated that in his view cooperation between internal security forces and judicial authorities, as a component of Political Union, was ‘vital and overdue’, and an essential accompaniment to the establishment of the Single European Market. He argued for a European police force: ‘(...) that would be able to operate without let or hindrance in all the Community countries in important matters such as the fight against drug barons or organized international crime’ (Kohl, 1991).

A formal proposal for such a body was tabled by Kohl at the European Council meeting in Luxembourg on June 28-29, 1991. This unit would be orientated initially towards tackling international drug-trafficking and organized crime. It would be established by December 31, 1993 and would develop in two stages. First, a relay station would be established for the exchange of information and experience, and then secondly, after December 31, 1992 further powers to act within
the member states would be granted, including jurisdiction and executive powers to investigate drug offences and organized crime. Kohl’s reference point was presumably the US Federal Bureau of Investigation (FBI).

German preferences for the structure and management of European police cooperation had developed along these lines since the early 1970s within the BKA (Bundeskriminalamt, the German Federal Criminal Investigation Department) (Cullen, 1992). Lode van Outrive, the Belgian Socialist MEP, emphasized in his Working Document on Europol that: ‘Since the early 1970s, the issue of a European criminal investigation department has been raised repeatedly in Germany. The German Criminal Investigation Department [i.e. BKA] has constantly shown itself willing to provide the main impetus for more extensive police cooperation. Schreiber [the Under-Secretary of the German Ministry of Home Affairs] argues, “We Germans, with our federalist state structure, have considerable experience with security issues. We should apply the approach used in Germany at a European level” ’ (Van Outrive, 1992a).

Some member states at the European Council are reported to have expressed surprise at the proposals. It has been suggested that this was perhaps part of Kohl’s political strategy; by taking quite an extreme position in advocating a European FBI, and in using surprise tactics, the German delegation scored an advantage (Le Jeune, 1992, p. 4; Fijnaut, 1992, p. 105). Ministers are reported to have been surprised by Kohl’s suggestions, but accepted the proposal insofar as they asked for a detailed study of the potential for Europol to be undertaken and submitted to ministers before the 1991 Maastricht Council meeting. This in turn may have surprised the German delegation, although this is, as Le Jeune himself acknowledges, complete speculation.

Some initial dissent from the British delegation to Kohl’s idea was reported. The British government at that time were thought to be more in favour of a police coordinating body at an intergovernmental level, and not at a supranational level (The Guardian, 1991a). A proposal made to the Luxembourg summit suggested that the Commission share with governments of the member states the right to make proposals. The British Prime Minister, John Major, disagreed with this idea (Economist, 1991).

Some senior police officers in the UK were initially extremely cautious about the whole idea: ‘I would question the practicality in the immediate foreseeable future of any form of European FBI

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4 See also Suzanne Scheller’s comments on this (Anderson and Den Boer, 1992, p. 189).
operating across frontiers in an executive capacity. I cannot begin to conceive of the difficulties which would face such a team called on to operate outside their own countries where they would need to understand and comply with the multitude of legislative and regulatory requirements' (Sir Roger Birch, former Chief Constable of Sussex and Chair of the Association of Chief Police Officers' International Advisory Committee, quoted in the European, 1991 and The Guardian, 1991b).

The Trevi initiative: a European Drugs Intelligence Unit

A second strand of action which has led to the development of Europol is the development of the idea for a European Drugs Intelligence Unit. The origins of this idea lie with Trevi, and in particular Working Group III which had been established in 1985 in order to study strategies for coordinating action against serious crime, especially organized crime and drug-trafficking. In December 1987 the Trevi ministers, meeting in Copenhagen, agreed on suggestions from this Working Group to establish a set of guidelines for posting Drugs Liaison Officers (DLOs) outside Europe to collect and disseminate information on drug-trafficking collected from producer or transit countries. At this time proposals were also confirmed for the establishment of National Drugs Intelligence Units (NDIUs) in each member state to coordinate efficient intelligence exchange on drug-trafficking and drug-related crime between member states (Sorensen, 1992).

In June 1991 Trevi ministers decided to establish guidelines for DLOs to work within the EC to collect information on crime in general, and coordinate requests from member states to other EC forces, for assistance with investigations and information. It is here that proposals for a European Drugs Intelligence Unit (EDIU) originate.

Kohl's idea for a European FBI, and proposals from within Trevi for a EDIU were in effect joined together. In August 1991 an Ad Hoc Working Group on Europol was established and tasked with the establishment of the European Drugs Intelligence Unit (EDIU), an organization which would be smaller than that proposed by Kohl but with potentially greater areas of responsibility than that initially proposed by Trevi Working Group III.

The Ad Hoc Working Group on Europol

The Ad Hoc Working Group on Europol (AHWGE) has between 40 and 60 members, and meets regularly. It has a permanent British
Chair, who is a senior government official in the Police Department at the Home Office, which also provides the secretariat. It reports back to the Trevi group of Senior Officials who pass on recommendations to the Trevi ministers for agreement. Documentation is produced in English. The AHWGE is tasked with preparing the convention which will provide the basis for the eventual establishment of Europol, and with establishing in the meantime the areas for action which can be undertaken by the EDIU before a convention is agreed. It is likely to continue in place until the convention is drafted, and this may take another two years. The European Commission is granted observer status at its meetings.

Trevi ministers met at The Hague on December 2-3, 1991 and agreed to formally ‘push’ for the establishment of Europol, its initial function then stated as being the exchange of information on narcotic drugs between the twelve member states. They also agreed a 1992 Programme of Action related to the removal of internal frontiers from January 1, 1993. Measures contained in this included ‘a study of the relationship between Community legislation on telecommunications and possibilities at a national level for judicial interception of telecommunications’. Steps would be taken to extend cooperation particularly with regard to environmental crime, development of crime analysis and combating of money-laundering. Agreement was reached on contact points in each country for the maintenance of public order ‘so that contact can be made at an early stage if specific disturbances of public order acquire an international dimension’ (Statewatch, 1992).

A decision was taken at this time to develop Europol in three stages. Firstly, a European Drugs Intelligence Unit (EDIU) would be established, which would act as a focal point for the NDIUs in the twelve member states. Secondly, National Criminal Intelligence Services would be created in all twelve member states. These would be entry and exit points for information to and from Europol located in each member state. Thirdly, the EDIU would be expanded ultimately into the fully-fledged Europol which would undertake analysis of intelligence data on all kinds of organized crime. No operational or executive powers were planned at this stage for Europol. Ernst Hirsch Ballin, the Dutch Justice Minister, announced the plans to the press, highlighting the importance of drug-smuggling and money-laundering as the first targets of Europol (Police Review, 1991).

The AHWGE will probably continue its work until the convention formally establishing Europol is signed.

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5 Interview with Home Office representatives, April 6, 1993.
The work of Project Group Europol

The Project Group Europol (PGE) was established under the terms of proposals drawn up at the meeting of Trevi ministers in Lisbon on June 12, 1992. The PGE was charged with drafting a plan for the Europol Drugs Intelligence Unit (as it was then known), which would constitute the first phase of Europol. The PGE, consisting of police officers, was established because staff with specific operational experience in the field of drugs was required. Europol is the first body to have been established by the Trevi group, and the decision to establish the PGE is a reflection of the AHWGE's recognized limitations in practical matters. With the establishment of the PGE and the British presidency of Trevi, the name of EDIU changed to Europol Drugs Unit (EDU), or EDU/Europol.

In July 1992 the fifteen members of staff were appointed to the PGE, drawn from nine of the twelve member states, under the directorship of Jürgen Storbeck, from the German BKA. Staff appointed to the PGE were on secondment. They were chosen because of their technical expertise in drugs intelligence matters and were all high-ranking officers. The working language of the PGE is English. The member states were all entitled to nominate representatives for the PGE, although not all chose to do so because of scarcity of resources and because in fact there was only enough work for twenty members of staff. UK representatives included personnel from the National Criminal Intelligence Service (NCIS) and HM Customs and Excise. The terms of reference of the group were to work on technical coordination, data processing and communications systems, intelligence, and material and personnel affairs. They report to the Ad Hoc Working Group on Europol. The above proposals were adopted by the European Council at Lisbon on June 26-27, 1992, which called for a convention to be prepared for the establishment of Europol.

The team started work in temporary office accommodation in Strasbourg. An inauguration ceremony on September 4, 1992 was attended by the French and German Ministers for Justice and European Affairs, including the French Home Affairs Minister, Paul Quilès, who was reported as describing the PGE staff as 'the embryo of a European police' (Platform Fortress Europe, 1992).

Currently, it is envisaged that in the first instance in the pre-convention phase of Europol, 24 European Liaison Officers, two in each member state, will be tasked with establishing the bilateral exchange of information between member states on drug-related matters.

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6 Interview with Home Office representatives, April 6, 1993 and with PGE representatives, April 28, 1993.
Establishing Europol

issues. EDU/Europol at this stage will also have an important analysis function, and overall reports on the drug situation in the EC will be produced in order to provide a clearer European view on, for example, the _modus operandi_ of drug dealers and on trade and trafficking routes. Personal data will not be analyzed and cannot be stored under the terms of the Ministerial Agreement on Europol.

Once a convention establishing Europol has been signed and ratified, it is anticipated at present that a centralized bilateral exchange of data will be facilitated through the Europol headquarters. Individual officers will decide whether to pass information on to officers from other member states. Information exchanges will remain bilateral. The storage of personal information will probably be allowed for under the convention.

The accommodation of PGE has raised much comment. It is located adjacent to the premises which house the Schengen Information System (SIS) in the Strasbourg suburb of Neuhof, in buildings variously described as: ‘(...) a temporary structure hardly better than a Portacabin (...) this shabby hut outside Strasbourg (...)’ (Bethell, 1992a) ‘(...) a hut on the outskirts of Strasbourg, behind a triple ring of high wire mesh (...)’ (Carvel, 1993).

As these mentions of a ‘hut’ indicate, this is a temporary location. Herein lies a serious question, a matter of dispute and a cause of delay in the establishment of the EDU and the eventual Europol.

_The location of Europol_

The location of EDU/Europol when it is properly established is an important issue. As King notes, the scope and nature of Europol will be determined by the decision on its location (King, 1993a). Although ministers have pointed out repeatedly that the present location of the PGE in Strasbourg is a temporary measure chosen without prejudice to a future permanent location (European Report, 1992), some commentators have viewed the involvement of the French and German Governments in the inauguration as an attempt by both to influence a future decision (Platform Fortress Europe, 1992).

A number of permanent locations for Europol have been suggested over the past three years. The Germans have advocated Wiesbaden, in Germany. The location near the BKA has caused comment to the effect that Europol located here could develop along the lines of the BKA. It has been argued that Europol should not be located in places which already have the headquarters of a national police force. This also eliminates Rome, which has also been suggested in the past, because the Italian Central Police Agency is located here (Le Jeune, 1992, p. 9). Interpol suggested that Europol be co-located in
Lyons, but the need to define Europol's functions as completely distinct from those of Interpol remove this option. Milan and Luxembourg have also been suggested on other occasions. At the time of the establishment of PGE at the Lisbon Summit, it has been suggested that agreement was virtually reached on the location of Europol in The Hague, the Netherlands. However, President Miterrand and Chancellor Kohl are supposed to have vetoed this idea, preferring a location in either France or Germany.

Discussions on Europol's location were held at the December 1 meeting of Trevi ministers in London, where 'squabbling' was reported over the possible location in either The Hague or Strasbourg between the Dutch and French delegations. The Hague had been suggested because of its centrality, and because of the availability of the newly-vacated headquarters of the Dutch CRI (Centrale Recherche Informatiedienst, the Dutch Criminal Investigation Department) (Hansard, 1993, column 1353). Strasbourg had been suggested because of its centrality and proximity to the European Parliament. At the December meeting, the Dutch supposedly blamed the French for blocking proposals to sign an agreement on operational rules for Europol, and then blocked a French plan for a temporary seat for Europol at Strasbourg, on the grounds that this would give the French a vested interest in stopping an agreement on the sites of other EC institutions. The French, for their part were accused of attempting to discredit The Hague's candidacy through their accusations that the Dutch government was failing to curb the sale of soft drugs (Financial Times, 1992b). As the then British Home Secretary, Kenneth Clarke, noted: 'It was a discussion which would have done justice to medieval school-men dancing round the edge of hair-splitting arguments on semantics' (The Guardian, 1992b).

No decision was reached at the December 1992 Edinburgh Summit. The decision in any case was tied to those on the location of other EC institutions, such as the European Central Bank and the European Parliament (The Guardian, 1993a). The Copenhagen Summit in June 1993 did not reach a decision on the location. This must now await the next meeting of the Council Ministers. This is officially scheduled for the end of the Belgian presidency in December 1993, although it is possible that an additional meeting may be held to resolve the dispute.

London has not been suggested as a location of EDU/Europol. Anecdotal information given to the research team suggested that this is because of lack of coordination between the British ACPO and the

7 Interview with Interpol UK National Central Bureau representatives, London, April 6, 1993.
Home Office; the British delegation to the Trevi meetings might have suggested London as EDU/Europol's home if they had received a positive suggestion on this point from ACPO. Kenneth Clarke, the British Trevi minister, was reported to be 'indifferent' about the location of Europol, because no British names were in the running (The Guardian, 1992c).

Jürgen Storbeck, the Director of PGE, has been reported as noting the following in favour of a Strasbourg location, which would enable easy access to the European Parliament (which is also located there): 'The more you centralize it, the more you can control it (...) we need acceptance by the governments and the citizens. We need to show that we are not a secret service' (The Guardian, 1993a).

At the meeting of the Justice and Interior Ministers in Copenhagen in June 1993, a Ministerial Agreement on the establishment of the Europol Drugs Unit was signed. This sets out the background against which this team is to operate. It does not have the legal powers of a convention but establishes the basis of understanding between the ministers on the areas the EDU will cover. Until the convention is agreed, the role of PGE is limited strictly to investigating the most efficient mechanisms for establishing the exchange of intelligence on drug-trafficking.

The lack of a decision on the location of Europol has slowed down the establishment of this unit quite considerably. The PGE members achieved their objectives in developing the plans for the first phase of Europol by December 1992, as required, but have since been waiting on a political decision on the siting of the unit. This has resulted in a considerable loss of momentum for the team, and potentially a loss of credibility for the whole project.

The Maastricht Treaty on European Union

Although still awaiting ratification, and thus not legally binding as yet, consideration of the Maastricht Treaty on European Union is important here as it provides a legal basis for Europol, and more broadly, establishes a solid basis for future European police cooperation. The Maastricht Treaty was signed in December 1991. Among other things, the Treaty establishes under its so-called 'Third Pillar' provisions for cooperation between member states in the fields of justice and home affairs. This is provided for in articles K1-9 of

8 Interview with PGE representatives, April 28, 1993.
9 The 'pillars' are areas of cooperation. The first pillar is the articles relating to the Treaty on European Union, which amends the Treaty of Rome. The second pillar deals with intergovernmental regulations on common foreign and security
Title VI of the Treaty. Article K1 defines areas of common interest for achieving the objectives of the Union, especially the free movement of people. These are:
1. asylum policy;
2. border controls;
3. immigration policy and policy relating to Third Country nationals;
4. drugs;
5. fraud;
6. judicial cooperation in civil matters;
7. judicial cooperation in criminal matters;
8. customs cooperation;
9. police cooperation 'for the purposes of preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (Europol)' (Maastricht Treaty on European Union).

Article K2 establishes compliance with certain declarations on human rights. Article K3 of the Treaty enables member states to coordinate action in all the above areas through the Council of Ministers.

Article K4 of the Treaty establishes a Co-ordinating Committee of Senior Officials (the K4 Committee, as it is often referred to) which gives opinions (solicited and unsolicited) to the Council. It will contribute to the preparations of the Council’s discussion of the aforementioned areas outlined in article K1(1-9) and discussion of the treatment of the Third Country nationals and visa policy. Three steering groups are planned under the K4 Committee to deal with customs and policing, judicial cooperation and immigration. The Commission is fully associated with the work of the K4 Committee. This Committee will only be formally established following the complete ratification of the Maastricht Treaty.

The Political Declaration associated with the Treaty commits member states to exploring ways of coordinating their national investigation and search operations which have an international dimension, enables them to create new data bases and to provide a central analytical facility for planning criminal investigations. It also enables member states to explore European-wide crime prevention initiatives and to extend collaboration in training, research, forensic science and criminal records (Den Boer and Walker, 1993, p. 7).

Member states may also agree, on the basis of a report to be presented policy. The third pillar deals with internal security and justice affairs, including police cooperation, which thus stands outside the competence of the Community and becomes an intergovernmental responsibility.
by 1994 at the latest, that the scope for cooperation in these areas should be extended (Busch, 1992, p. 6).

The Treaty’s importance to European police cooperation lies in its horizontal coordination of customs, policing, judicial and immigration issues, which until now have been dealt with by separate groups and agreements at the intergovernmental level. It establishes a legislative and administrative framework for Europol and formalizes much of the work of Trevi. The framework is broader than that of Trevi and the K4 Committee will absorb the work of Trevi when it becomes operational. Trevi, in effect, will be replaced once the Maastricht Treaty is fully ratified, but only then. Press reports, including quotations from the UK Home Secretary Kenneth Clarke, announcing its demise (Statewatch, 1993) have been premature and misleading on this point. It is likely that there will be considerable continuity between the Trevi Group of Senior Officials and the K4 Committee; certainly in the UK, staff in the former group will have similar roles in the latter.

Assessment of Europol

An assessment of Europol in any meaningful sense at this stage in its development is, of course, impossible. The EDU has not been fully established as yet, the Maastricht Treaty has not yet been ratified, and a permanent site for Europol has not even been agreed. However, it is possible, and perhaps necessary, to discuss at this stage a number of key issues that have emerged as a consequence of the debate over Europol/EDU. In many cases they are issues which have a broader frame of reference and relate to more general European police cooperation issues.

Some recognized benefits

The real benefits of EDU/Europol are difficult to discuss at this point in time, and will only really become apparent when serving police officers start using the EDU. We can speculate however. There are obvious benefits to be gained by the police and law enforcement agencies through the establishment of Europol/EDU. Firstly, and most simply, Europol/EDU will facilitate enhanced information coordination and exchange. In the words of Earl Ferrers to the British House of Lords: ‘The purpose of the Europol Drugs Unit will be to act as a non-operational team for the exchange and

10 Interview with UK Home Office representatives, April 6, 1993.
analysis of intelligence about illicit drug-trafficking and the associated criminal activities which affect member states collectively. The unit's objectives will be to help the police and other law enforcement agencies both within Member States and between them to combat crime more effectively' (Hansard, 1993).

Certainly, there is political capital to be gained from the idea of the EDU/Europol. In the run-up to the French referendum on the Maastricht Treaty, President Miterrand warned on television that 'No to Maastricht would be a Yes to the Mafia' (Financial Times, 1992a). It has been presented as 'an efficient European response to criminality' by a representative from the French Ministry of the Interior (Franquet, 1992, p. 115). Similar endorsement has come from Dutch police representatives: 'It is important that we have one central point in Europe. The people working there have to know how things in the different countries are organized, how the laws operate, who is in charge, what information the different authorities have etcetera. Perhaps more important is that the central point, you could call it Europol, has the mandate of European governments to get and give information to all authorities in the member states - without bureaucracy, immediately and complete' (Grootaarts, 1992, p. 10).

Despite reservations which are outlined later, representatives from Interpol have given cautious recognition of the benefits of Europol/EDU, not least because, in their opinion, the EDU will have more information than the Interpol data bases, comparing the drugs data bases of all the twelve member states with the selective information held at Lyon. Furthermore, it will have an intelligence analysis function, compared with Interpol's function of handling communications about intelligence.\(^\text{11}\)

A second benefit that has been attributed to Europol has been the shake-up that has ensued in the organization of the European police forces and law enforcement agencies (King, 1993b). This has happened in Belgium and in the UK with the establishment of NCIS, the National Criminal Intelligence Service in April 1992. The Netherlands had established the Department of Narcotics, the VMC (Verdovende Middelen Centrale) a number of years previously. The other nine member states have yet to establish centralized drugs intelligence or general intelligence units, but as this is required for the operation of the EDU, and as all the respective Ministers of Justice have signed agreements on Europol which call for this, it undoubtedly will happen over the next two years.

A third benefit of the establishment of Europol relates to the development of a legal basis for European police cooperation. The

\(^{11}\) Interview with representatives from Interpol NCB, London, April 6, 1993.
legal provisions for Europol appear through the Maastricht Treaty, which provides regulation of a previously unregulated area. The K4 Committee, which will take over the work of Trevi, will have clear areas of responsibility mapped out for it. An institutional context has now been established for Europol (Den Boer and Walker, 1993). Of course, the benefits of this in the longer term remain to be proven. Although there are those that would argue that regulation is an improvement, there will be others less satisfied that the modes of regulation for European police cooperation are suitable or sufficient.

Practical problems and prospects

The emphasis of this second part of the article on the limitations rather than benefits of the EDU/Europol, is illustrative of the quantity and variety of negative and questioning comment that has been generated since the publication of the EDU/Europol proposals. Sir Roger Birch, former Chief Constable of Sussex and Chair of ACPO’s International Affairs Committee, has articulated quite concisely the major points of concern: ‘(...) it is right to question the practicality in the immediate foreseeable future of any form of European Federal Bureau of Investigation operating across frontiers in an exclusive capacity. We each have our own national characteristics and idiosyncrasies which would need to be understood by such a team when called upon to operate outside their own countries. They would also need to understand and comply with the multitude of legislative and procedural requirements which cover the criminal process in our different states. I cannot begin to conceive the difficulties they would face.’ ‘How many officers in the team – five, five hundred, five thousand? Where are they to be based – Rome, Paris, Dublin or Wiesbaden, within Interpol or at least on their extra-territorial land? To whom would they be accountable? What are their terms of reference?’ ‘Whilst we are much further down the road to harmonization, until we can work across boundaries to one set of rules and regulations, I believe that the best way forward is a pragmatic approach which is linked to improving arrangements for cooperation between existing agencies, rather than creating large and new super-agencies with ill-defined powers and lines of accountability. In other words, progress by evolution not revolution’ (Birch, 1992).

Birch’s comments summarize the concerns expressed by many others in different contexts, and in essence raise questions concerning the duplication of existing agencies; the accountability of the new EDU or Europol; and the harmonization of judicial and policing systems across Europe.
A duplication of effort?

The duplication, through the creation of the EDU, of existing initiatives, organizations or systems has been a major point for comment. Unsurprisingly, Interpol in the past has been reported as viewing the new agency as a duplication of effort, replicating tasks already carried out by the European Division at Interpol HQ in Lyon (though see more recent aforementioned comments by Interpol representatives).

Interpol has received criticism for many years, over its inefficiency, slowness and lack of internal security (Anderson, 1989; Fooner, 1989). Under the directorship of Raymond Kendall since 1985, the organization has committed itself to a programme of modernization (Bresler, 1992), although the old image persists: ‘In real life, many British police officers would as soon hand over their operational information to Interflora as Interpol (...)' (Jenkins, 1991). Whatever these criticisms, (and the research undertaken by the CSPO has indicated that the organization has improved its operational abilities considerably over the past five years; see Benyon et al., 1993). Interpol representatives have emphasized on many occasions their reservations about Europol: ‘Between 75 and 80% of Interpol's work is European based in any case, so we virtually have the machinery in place here anyway. Besides, if countries do not use Interpol to its full extent, what chance full use of Europol?’ (Police Review, 1991)

Some representatives of Interpol are reported to fear that Europol may refuse to share information with Interpol. Furthermore, Kendall has commented that ‘We have to make the best use of the resources we have in Europe’, indicating concern at the financial implications of the duplication of Interpol’s role (CJ Europe, 1992).

As with many of the questions raised in this article, the validity of these concerns remains to be proven through the actions of the EDU/Europol. It is possible that despite the common ground between Interpol and EDU/Europol, there will be sufficient operational space for both. In any case, and speculative though this might be, the level of liaison between representatives of Europol and Interpol appears to be high. For example, in the UK, a representative from NCIS, which houses the Interpol NCB, is seconded to Project Group Europol in Strasbourg, and the UK Home Office is represented at Interpol’s European Section meetings, and the AHWGE and at Trevi Senior Officials meetings by the same two individuals.12 This should, with luck, indicate that liaison is sufficient between the various parties to

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ensure that efforts are not duplicated. unfortunately, detailed information on interpol's assessment of europol is not currently available to the research team. the interpol document 'business plan for europe' is reputed to contain additional information on this.

the concentration of effort in the first instance on drugs intelligence has raised questions concerning a duplication of efforts in specific areas. many feel that cooperation is already well established in relation to drug-trafficking and related crime. there are a number of reasons for the choice of drugs as a starting point for europol/edu. the choice has been justified on the grounds that it is easily demarcated or ring fenced. also, precisely because of initiatives already existing in this field, it was felt that previous experience could be drawn upon. the choice is also seen to reflect the influence of the us's drugs enforcement agency (dea) in their efforts to coordinate action against international drug-trafficking. robert bonner, the head of the dea, speaking at the royal institute of international affairs has been reported as saying, rather wearily perhaps, that: 'most of the ec seems oblivious to the fact that western europe has become a major export market for cocaine' (the guardian, 1992a).

levi and maguire, two british academics, point to the dea's efforts as instrumental in moves to coordinate the european drugs intelligence units under the edu (levi and maguire, 1992, p. 181). the fight against drug-trafficking and drug-related crime has a high political priority. david bowe, mep and chair of a european parliament committee of inquiry into drug-trafficking and organized crime claimed that: 'ec countries have no co-ordinated way of dealing with drug-trafficking. the only link is interpol and loose arrangements between customs officers' (the guardian, 1991b).

perhaps the different law enforcement agencies and controlling institutions need to be seen to be tackling the rise in drug-trafficking and related crime through a new initiative. there are probably a number of other reasons for the focus on drugs in addition to those discussed here.

yet, the european parliament's civil liberties and internal affairs committee has questioned the focus on drugs on the grounds that there are already a number of initiatives in this field, and that the choice does not reflect operational requirements (van outrive, 1992b).

13 ibid.
15 anecdotal evidence given to the research team pointed to the existence of up to seven different networks or mechanisms available to police officers in europe for the transfer of information or intelligence about drug-trafficking and related crime.
They recommended that efforts be made in the field of international organized crime, for example trafficking in waste, organs and persons, environmental damage, theft of valuables, computer fraud, document fraud (bank cards), and subsidy fraud. In its report, the Committee argued that Europol should also deal with international financial and fiscal crime, a focus advocated also by the CSPO research team (Benyon et al., 1993). An emphasis on subsidy fraud has also been proposed by Lord Bethell in the House of Lords (Hansard, 1993, column 1351).

The question of inefficiency, or lost possibilities through duplication of effort in relation to drugs remains to be proven. This will only be clarified once the EDU is established and functioning, and the parameters for its operation clarified in the convention establishing Europol.

Accountability

The provisions for ensuring adequate accountability of Europol have drawn a great deal of critical comment, predominantly (and unsurprisingly) from individuals and groups concerned with civil liberties issues, but from senior police officers as well.

Fears on the accountability of Europol/EDU appear to be generated by the supposed secrecy surrounding the plans; can we trust an organization to be accountable in the future, if we cannot obtain information on its development today? Despite assurances given to the research team that planning meetings contain nothing of interest and nothing to fear\(^\text{16}\), it is understandable that a lack of information can breed a mystique which can degenerate into fear. The quotation from the British newspaper The Guardian illustrates this well with its reporting, prior to the 1991 Maastricht summit, of the establishment of a ‘(...) somewhat sinister Europol seizing people and searching houses at the behest of another country’s police, and spiriting them into a foreign police cell’ (The Guardian, 1992b).

The lines for communication about the plans for Trevi and for Europol are limited. These bodies are intergovernmental, and thus information is only available through the appropriate national government channel and not through EC bodies. As Paul Staes MEP, discovered, this severely limits the role of the Commission and Council in providing information. In April 1992 he submitted 17 questions to the European Commission and Council about Trevi, including questions on the nature of plans to establish the EDU. The Joint Answer pointed out that: ‘The types of cooperation referred to

\(^{16}\) Interview with representatives from UK Home Office, April 6, 1993.
(...) are not covered by the Treaties establishing the European Communities and the Council is not therefore able to reply to the Honourable member’s questions’ (Official Journal of the European Communities, 1992).

As the journalists Jolyon Jenkins and Nicholas Busch both point out, it is impossible to know what is really planned for Europol and the future of Trevi because these discussions take place behind closed doors (Jenkins, 1992; Busch, 1992). This level of secrecy can breed suspicion and fear. This secrecy also leads to a lack of public debate. Whilst this may not be of concern to senior police officers and civil servants, it certainly has been to those concerned with the development and maintenance of critical public commentary on policing issues and systems of accountability in Europe. Lode van Outrive, MEP and member of the European Parliament’s Civil Liberties and Internal Affairs committee is characteristically expansive on this point, and is worth quoting in full: ‘Experience shows that it is very difficult, both for the European Parliament and for the national parliaments – and certainly for interest groups as well – to find out when discussions are taking place, what is being discussed, what progress has been made etcetera. It is virtually impossible for matters to be publicly debated in advance. Members of parliament are dependent on the goodwill of national ministers and of the Council for information. Moreover, the legal and political status of documents is never clear: are they public, secret or confidential, and who decides this? Their confidential nature is certainly exaggerated – but it is enough to create ample opportunities for governments and pressure groups to manipulate the national and European political debate. Members of Parliament are sometimes faced with a serious dilemma: either they must refuse to accept information which they will not be at liberty to pass on, or they must accept it on condition that they raise no objection to it. Public debate is thus rendered impossible’ (Van Outrive, 1992b, p. 11).

The European Parliament has taken a leading role in asking questions about the accountability of Europol, and its Committee for Civil Liberties and Internal Affairs have been particularly active in this area. The European Parliament has a role defined for it in the Maastricht Treaty. Article K6 gives it the right to be informed by the presidency of the Council and the Commission of discussions taking place around the areas defined in article K1 (see above) which includes Europol. The European Parliament may ask questions of the Council or make recommendations to it. The Parliament can consult the presidency on the principle aspects of activities in K1 areas, and the Presidency shall ensure that the views of the European Parliament are duly taken into consideration.
Earl Ferrers, the British Home Office Minister, stated in the House of Lords that the correct and proper route for consultation is through the presidency, and told Lord Bethell, an MEP and member of the House of Lords, that: ‘It might be considered not to be the correct route for members to have official contact with officials’ (Hansard, 1993, column 1358).

Lord Bethell was a member of a delegation of MPs and MEPs who had arranged to meet representatives from PGE. The Home Office is reported to have been unwilling to discuss details of the EDU with MEPs or to allow the MEPs to meet the PGE representatives as planned, in accordance with the belief that only the Presidency of the Trevi Group of Ministers should answer the MEP’s questions. Lord Bethell’s response was to state that: ‘The Home Office wanted to “control” the answers to any questions that politicians might raise’ (Bethell, 1992b).

The two groups did eventually meet. This is a trivial anecdote but highlights an important point about the restrictions imposed on the flow of information about the EDU.

Questions have also been raised about the accountability of the Coordinating Committee established under the Maastricht Treaty on the grounds that it constitutes an excessively powerful executive committee. The European Parliament report on the establishment of Europol detailed K4’s powers as legislative in that it can adopt rules, measures and provisions and amend or supplement conventions; executive in that it can decide on the suspension of application by a country and extended application; and judicial in that it can monitor an application, interpret, settle conflicts etcetera. This, the Committee has argued, is contrary to the democratic (and in some instances) constitutional separation of powers and human rights established in the member states. Such a committee is not part of the judiciary and there is no provision for publishing its decisions (Van Outrive, 1992b, p. 12). The officials on this committee are civil servants and are thus not accountable to an electorate. Again, this point may be dismissed by senior civil servants involved with the K4 Committee, but it is still an important point about the power of the body which will oversee the EDU. The Europol Drugs Unit is technically accountable to the Trevi ministers. As Earl Ferrers admitted, however: ‘In practice (...) Ministers will delegate the responsibility for the day-to-day running of the unit to officials’ (Hansard, 1993, column 1357).

The issue of the dangers inherent with limited systems of accountability has been developed previously by Fijnaut in his

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17 It should be noted that there were also reservations about a German BKA officer representing the British presidency at a meeting with the European Parliament.
commentary on the internationalization of policing, for example, with reference to the issue of a suspect's rights. He notes that the legal protection of suspects has never been accorded much consideration, and he cautions that 'we can (...) not be anxious enough' with regard to this (Fijnaut, 1991, p. 113). Such protection, he suggests, can be achieved by clear definition of suspects' rights in the appropriate treaties; tight supervision of the judicial control of investigations by national Departments of Justice; and strengthened political control of the administration of police investigations through national parliaments and the European Parliament (Fijnaut, 1991, p. 113).

Whether the European Parliament will be granted a role in the development of Europol is debatable. The Committee on Civil Liberties and Internal Affairs has called for an increased role for the European Parliament in relation to the EDU through article 235 of the Treaty of Rome (Van Outrive, 1992b, p. 10). This allows for the European Council, acting on a proposal from the Commission and after consultation with the Parliament, to take 'appropriate measures' if the Treaty of Rome has not provided the necessary powers. However, because police cooperation is defined as an intergovernmental matter and outside the competence of the Commission and Council, this action is actually impossible.18

Data protection is another area where concerns have been raised about the accountability of Europol/EDU. Again, little information is available on this, beyond Earl Ferrer's statement in the House of Lords to the effect that the relevant national data protection authorities will play an active role in the oversight of the Europol Drugs Unit, and over the handling and protection of data received by it. At the time of writing there are no plans at this stage to hold a central data base of personal information (Hansard, 1993, column 1356).

Concerns have been raised about the accuracy of data entered onto these data bases. This is not a question that has been raised solely in relation to Europol but covers the establishment of the national criminal intelligence computers, the European Information System and the Schengen Information System as well. Cases of mistaken identity, or arrest on the grounds of false information are two worries. The rather cavalier attitude towards data protection reported from interviews with some police officers has dismayed many commentators on this subject (Jenkins, 1992).

In a recent newspaper report on the wrongful arrest of Welsh football fans Wayne David, MEP for South Wales commented on the need for greater transparency in the way in which information on

18 Interview with representatives from UK Home Office, April 6, 1993.
individuals is compiled, and called for safeguards to be established to protect the innocent. NCIS denied that inaccurate information had been circulated: 'Information that we receive from foreign police forces is fairly assessed and accepted in good faith. It is weeded out on a regular basis and individuals have access to it under the Data Protection Act' (The Guardian, 1993b).

Statements such as these have done little to allay fears. Again, it is unclear at present how issues of accountability will be dealt with in practice under a formally-established EDU/Europol. Mistakes happen, and the European Parliament's concerns reflect this. It might be the case that in practice, procedures for dealing with complaints and mistakes are adequate. If they are not, the initiative for change rests with the K4 Committee and Interior Ministers. This is a cause for concern among many in the European Parliament.

Conclusion: an operational capacity for Europol?

Finally and briefly, many commentators, including some very senior police officers, have raised the issue that Europol surely is not viable until it has an operational capacity. This it will not have until greater efforts have been made to harmonize policing and judicial systems within the EC. For example, Ramond Kendall, Secretary General of Interpol, has publicly questioned, as has Sir Roger Birch, whether a federal police system could work given the different languages, legal systems and levels of accountability that exist: 'Only when an appropriate legal infrastructure has been established would it be wise to go forward and create a supranational police force for the European Community' (Raymond Kendall speaking at the House of Commons meeting of the European Atlantic Group, quoted in Police Review, 1992).

Is a supranational police force likely? On the face of it, it appears unlikely for the time being. Although tentative steps have been taken towards the harmonization of policing and judicial systems within the EC, this is a very slow process, and is politically contentious. An operational capacity for Europol will rest in part on the existence of relatively coordinated policing systems, and the latter is not being discussed as a serious issue at present.

However, some commentators have argued, drawing on lessons from the history of European police cooperation and on theories of policing and the nation state, that the development of a number of operational powers for a European police force is at least possible in the more immediate future. The argument has been made that sovereignty is the embodiment, the quintessence, of the modern state.
The modern state, in Weberian terms, is viewed as the collectivity which claims the monopoly of the use of legitimate violence within a given territory (Den Boer and Walker, 1993, p. 12). This monopoly of violence does not encourage internationalization of police cooperation — the use of police powers by one state in the territory of another. But as Fijnaut argues, if cooperation is considered necessary, or operational powers are required by police officers, internationalization will happen. It will be organized through informal or secret channels, and will be forced by circumstance, rather than by careful planning, but it will happen (Fijnaut, 1991, p. 119). As Levi and Maguire point out (1992), pressures towards homogeneity between criminal justice and policing systems are clear, in the form of recommendations from the Council of Europe. The absence of crime policy and mechanisms for policing from the Treaty of Rome and the Maastricht Treaty means that individual states can assert their rights to determine their own policing strategies. However, where coordination is seen to be necessary, as indeed has been recognized in relation to serious crime and drug-related offences, the lack of a clear mandate within EC frameworks has not in effect prevented harmonization or cooperation taking place. It can be ‘smuggled in through convenient back doors’, and Levi and Maguire cite the establishment of the EDU as an example of this. To put this bluntly, if the member states of the EC see a need for greater harmonization of policing structures, on the basis of their understanding of the crime threat, then this may happen and EDU/Europol will be crucial here. But a legal, official operational capacity for EDU/Europol is a long way off in the future.

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The accountability of European police institutions

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The exponential growth of international policing institutions in and around the European Community (EC) is an increasingly well-documented phenomenon (MacLaughlin, 1992; Den Boer and Walker, 1993; Dorn, 1993; Fijnaut, 1993a and 1993b; Walker, 1993a and 1993b; Anderson and Den Boer, forthcoming). Rather less attention has been devoted to the arrangements for holding these institutions to public account. The aim of this article is to correct this imbalance. To begin with, a brief critical overview is provided of present accountability arrangements in the European domain. Thereafter, an attempt is made, drawing upon a wide range of social and political factors, to explain why these arrangements have emerged and continue to develop in such a limited form. Finally, in the light of this assessment the article examines how the accountability of the developing network of policing institutions might be optimized.

Present arrangements

Although their relationships to the wider structure of the EC are very different, Interpol, Trevi, Schengen, and Europol have each contributed significantly to the emerging profile of transnational policing arrangements within the Community. It is these four institutions, therefore, which provide our main focus of analysis, with particular attention devoted to Europol as the most ambitious framework for European police cooperation yet to be conceived. As suggested, there is already abundant literature on the general workings of these key bodies, and no attempt is made here to cover old ground.

In order to assess the adequacy of the arrangements for holding these four institutions to public account, we must first identify the key dimensions of accountability. Drawing upon Baldwin’s analysis (Baldwin, 1987), we may argue that there are three criteria in
accordance with which the accountability, in its broadest sense, of an activity such as policing may be assessed. The first concerns the extent to which the institution and its practices are authorized by a legislative mandate; the second concerns the arrangements made for holding the institution to regular account by a broad democratic constituency; the third concerns matters of `due process', rules and procedures whereby individuals and groups affected by specific institutional practices may influence such practices or otherwise ensure that their interests are safeguarded in the pursuit of these practices (Den Boer and Walker, 1993, pp. 19-24).

**Legislative mandate**

Whereas most national policing systems, including the UK's, have statutory underpinnings, this has been largely absent in the European and broader international domain. Interpol is notorious for its lack of a treaty basis in international law (Anderson, 1989). Nor at any stage since it was established between the member states in 1975 has Trevi formally been recognized within the EC legal framework, or even within the secondary framework of European Political Cooperation. Under treaties signed in 1985 and 1990, Schengen is constituted on a more formal footing, but its regulatory regime remains one of international law rather than directly applicable EC law. Finally, Europol, while recognized within the EC Treaty framework under the Maastricht Treaty on European Union 1992 (TEU), will operate only at the margins of the Community. The role of all major Community institutions – Council, Commission, Parliament and Court of Justice – is either limited or unresolved, and the more detailed legislative mandate which is currently being formulated to govern Europol's future development and operations will again be one of international law rather than supranational law (Robles Piquer, 1993).

**Popular accountability controls**

Stemming from this weak legislative base, popular accountability controls over the relevant institutions are equally supine. Neither Interpol nor Trevi has to account to a separate agency across the broad range of its functions. A Joint Supervisory Authority will monitor Schengen, but only with respect to activities associated with the Technical Support Function and the SIS (Baldwin-Edwards and Hebenton, forthcoming). With regard to Europol, and its prototype, the Europol Drugs Unit (EDU), it has been decided that the main lines of accountability will follow an attenuated course through existing national structures (Trevi, 1991; Walker,
forthcoming). The European Parliament, particularly through its new Committee for Civil Liberties and Internal Affairs (Tsimas, 1992; Van Outrive, 1992a, 1992b, 1992c and 1992d; Robles Piquer, 1993), has made strenuous efforts to reduce the accountability gap. However, it has remained hamstrung by the general limitations upon the role of the Community's supranational institutions within the 'third pillar' of Justice and Home Affairs (JHA) under the TEU (Jenkins, 1992). Indeed, frustrated by these restrictions, the Parliament has recently called for the next round of constitutional reform in the Community in 1996 to bring JHA more squarely within the EC framework, so as to enhance democratic accountability (Robles Piquer, 1993).

Due process controls

International police cooperation is already capable of impinging significantly upon individual rights and freedoms, especially in the field of computerized information exchange. All four of our key institutions have recently developed or are in the process of developing new systems which will increase the risk, already well documented (Jenkins, 1992), of individuals suffering oppressive police treatment as a result of inaccurate or outdated personal information being relayed or stored within transnational networks. Despite this, existing safeguards seem insufficiently robust. Interpol has a rudimentary complaints system in the form of a Supervisory Board to examine internal files, although internal control is retained over its membership (Anderson, 1989, pp. 65-66). All EC member states are signatories to the 1981 Council of Europe Convention on Data Protection and the 1987 Recommendation on the use of personal data in the police sector, but since both instruments allow wide scope for derogation in matters of state security, public safety and crime prevention, their capacity to prevent abuse in cases where police mishandle information is correspondingly reduced (Norman, 1992; Baldwin-Edwards and Hebenton, forthcoming; Raab, forthcoming). A draft EC Directive on Data Protection was published in 1990, but its scope and date of implementation remain unclear (Raab, forthcoming). Instead, the continuing lacunae have recently prompted the Committee on Civil Liberties and Internal Affairs of the European Parliament to call for the appointment by the Commission of a Community Data Protection Officer (Van Outrive, 1992c, p. 8).

If Europol were to acquire operational powers, including search, questioning and arrest, the need for due process rights in areas other than data protection would also become pressing. The relevant foundation principles are enshrined in articles 5-7 of the European
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Convention on Human Rights, which is endorsed in the JHA Title of the TEU (article K4.2). However, it is left open whether the European Court of Justice is to have jurisdiction over JHA matters (article K3). Even if so, it is arguable that this general constitutional mechanism requires to be supplemented by a special complaints process and tribunal, perhaps under the remit of the new European Ombudsman (Van Outrive, 1992d).

Accounting for limited accountability

Why, then, are current accountability standards deficient and why, despite the opportunities provided by the development of new institutions, are there only modest signs that these standards will be enhanced in the foreseeable future? In addressing this question, we must look at a wide range of factors. These may be organized under four main headings, although they are complexly interrelated.

Political marginalization

At one level, the absence of a mature framework for holding European police institutions to public account is closely linked to the more general lack of institutional development of international cooperation in policing matters. As historical treatments of both pre-Interpol (Nadelmann, 1993, ch. 4) and post-Interpol (Anderson, 1989, ch. 2) phases have graphically demonstrated, international police cooperation has long been characterized by light regulatory regimes at best, and by informality and ‘ad hocery’ at worst. In such barren terrain, there is little opportunity for robust systems of accountability to take root.

At the heart of this tradition of informality lies a tension between key functional and ideological themes in international relations. On the one hand, police forces in different nation states must devise ever more extensive methods of mutual assistance and information sharing if they are to deal effectively with deviant activity on an international scale, the incidence of which increases in line with the intensification of global economic, political and cultural connections (Latter, 1991). On the other hand, the modern nation state grew out of the absolutist state of the 16th and 17th centuries whose defining characteristic, in the view of contemporary thinkers such as Jean Bodin and Thomas Hobbes, was its direct control of the means of violence against threats from both within and outside the sovereign territory (Giddens, 1987, ch. 7; Jessop, 1990, p. 343). Today, the idea of an independent police power as an important symbol of autonomous statehood persists as a
key legacy of the Hobbesian world order.

This tension is exacerbated by the fact that many of the areas in which demand for international police cooperation is greatest are also those where the autonomy of the state and the protection of its key interests are most directly at stake (Walker, forthcoming). Students of the relationship between policing and state power have drawn an important distinction between 'high policing' and 'low policing' (Brodeur, 1983, p. 513), and between the concern to protect, on the one hand, the 'specific order' which serves the interests of those who are politically and socially dominant in the state, and on the other, the 'general order' in which all members of the community have an interest (Marenin, 1982, p. 258). Terrorism falls squarely within the domain of 'high policing' and specific order; yet, as is suggested both by the tortuous history of attempts to interpret Interpol's restriction against interference in political, religious and racial matters in a sufficiently liberal manner to allow anti-terrorist cooperation (Anderson, 1989, ch. 6), and by the importance of the terrorist threat as the catalyst for Trevi, the strong commitment of individual states to determine the security context within which anti-terrorist operations take place must be finally balanced against, and to some extent defer to, the need to cooperate internationally so as to counteract the wider dimensions of the problem.

As the EDU's defining brief indicates, drug-trafficking, together with money-laundering and other associated activities of the 'criminal organizations' implicated in this trade, is currently perceived to constitute the most significant common threat to the criminal laws of the EC states. However, as with anti-terrorism, beneath a broad consensus, there remain important differences in national perspectives. So deeply are the activities at issue embedded within the economic order of the state, and, in the case of the supply of hallucinogenic drugs, so closely is its regulation connected with particular national attitudes towards the most prudent balance between license and repression, that again considerations of specific order can impede the development of common institutions. For example, an important subtext of the recent failure to decide upon the EDU's headquarters and to meet the initial deadline for the dismantling of the internal borders of the Schengen states, was French unease at the comparatively liberal Dutch anti-drugs regime (Statewatch, 1993, p. 8). Yet, further examples of how tensions and conflicts between the specific orders of different states tend to militate against the formalization of cooperation in emerging areas of international crime, may be noted in matters as diverse as public disorder (Den Boer and Walker, 1993, pp. 14-15) and EC subsidy fraud (Clarke, 1993; Passas and Nelken, 1993).
Superficially, recent developments in the EC under the JHA Title of the TEU might seem to mark a new trend towards a more formal regulatory regime in international policing. However, a deeper analysis suggests that the tension between functional and ideological considerations remains and, if anything, has become more deeply entrenched. In functional terms, there has been a ‘spillover’ (Lindberg, 1963) from the economic domain to the security domain. In the official policy of the Commission (European Commission, 1988), the 1992 single market programme, with its emphasis upon the abolition of barriers to the free movement of goods and persons, particularly frontier controls, also removes a powerful obstacle to international crime; this has to be compensated for by a variety of measures, including the enhancement of law enforcement cooperation envisaged under the Schengen and Europol frameworks. Doubts have been widely expressed over the empirical credentials of this argument (Latter, 1991; Walker, 1993a, pp. 126-127), and even if they are sound this is still a very narrow base upon which to found common security institutions. A more direct justification would appeal to the importance of such institutions as an integral component of the unique supranational order which the EC has become. However, such a justification is unlikely to gain currency under present circumstances for two overlapping reasons.

In the first place, there is general uncertainty over the pace and direction of institutional growth within the Community. Protracted controversy over the ratification of the Treaty on European Union in Denmark, France, UK and Germany has announced a new wave of ‘Europessimism’ (Hoffman, 1993, p. 27) which may come to rival the decade from 1974 to 1984 as a time of stagnation in the development of the Community. The reasons for this are many and complex. They include a new national insularity born of economic recession across Western Europe and a preoccupation with deep-rooted political problems within member states, most notably in Italy and Germany (Hoffman, 1993). Relatedly, they also include concern over the loss of national sovereignty to European institutions. Crucially, this can lead to resistance to attempts to reduce the ‘democratic deficit’ at the Community level – generally understood as the inability of the European Parliament adequately to control the less democratic European institutions – since the strengthening of any European institution may be perceived in narrow zero-sum terms as contributing to the erosion of the capacity for national self-determination (Weiler, 1991, pp. 2472-2474). This helps to explain why, in the prevailing atmosphere of negotiation, the attempt of the Dutch European Minister, Piet Dankert, to provide for the fuller ‘communitization’ (Fijnaut, 1993a) of the JHA Chapter in a draft treaty on European
Union published six months before the final Maastricht agreement, was so quickly and widely dismissed by member states, even though this draft would have enhanced the accountability of the new institutions.

Closely related to the widespread, if fluctuating concern over the rate of Community development and the erosion of national control, is a more specific concern with the appropriate remit of a mature EC. As Schmitter has argued, the EC may be the prototype 'post-Hobbesian state', (discussed in Bryant, 1991; Streeck and Schmitter, 1991, p. 152). Such an entity is distinguished by 'the absence of military insecurity as the overriding motive/ excuse for the exercise of political authority'. Unlike the Hobbesian state, it has not emerged in circumstances where 'the accumulation and concentration of coercive means grow together' (Tilly, 1991, p. 19). Instead, it has developed as a unit of political organization primarily inspired by and concerned with economic and, increasingly, with social and cultural objectives (Majone, 1993; Meehan, 1993). Accordingly, it may be that the general apprehension over the loss of national sovereignty to the Community which effects member states will be more keenly felt in an area such as policing, which is most centrally implicated in older, Hobbesian conceptions of national identity and which, by contrast, is seen as peripheral and largely inappropriate to the concerns of the new supranational order. On this view, scepticism over the full acceptance of policing within its jurisdiction transcends the present general crisis of legitimacy affecting the Community and would serve to check its ambitions in this direction even in a more progressive international political environment.

**Bureaucratic momentum and the development of policing markets**

One important consequence of the historical tendency to view police cooperation in functional terms has been to grant to the functionaries – the senior civil servants and professionals within the world of law enforcement – a key role in developing frameworks of cooperation and in defining agendas. One commentator has developed this theme in particularly forceful terms, talking of 'a virtual, revenge against the world of politics' perpetrated by a 'self-motivating bureaucracy' (Bigo, forthcoming). The development of a significant degree of bureaucratic momentum has a number of negative implications with regard to accountability.

To begin with, the emergence and constant evolution of so many different institutions of cooperation provides a range of moving targets within a single 'crowded policy space' (Raab, forthcoming), resulting in a degree of institutional complexity and fragmentation.
which is far from transparent. It is difficult, therefore, to monitor the entire field and to account for all key agencies even at the most elementary level of the publication of basic information, still less in terms of a more sophisticated supervisory framework.

The relationship between these various agencies is also of significance. At one level this is characterized by increased networking between agencies with overlapping personnel, occupational backgrounds and objectives. This can lead to a self-corroborating world view, a mutually reinforcing ‘internal security ideology’ (Bigo, forthcoming) where professionals translate their occupational priorities into a policy perspective which emphasizes the needs of law enforcement above other social objectives and concern for individual rights and freedoms.

The interaction of so many agencies in an expanding field of activity also leads to a degree of competition (Van Reenen, 1989; Johnston, 1992, pp. 201-202). In the absence of a settled institutional structure, policing across borders to some extent comes to resemble an ‘international commodity’, with different organizations vying to provide a more attractive package. However, because it is an internal market, where both providers and customers are police organizations or the state and interstate bureaucracies associated with them, this competitive environment tends to reinforce rather than to reverse the homogenizing trend described above. Police organizations attempting to secure a niche in a marketplace dominated by like-minded organizations will tend to advertise their product as one which meets security objectives more effectively than those of their rivals, rather than as one which pursues different objectives.

Further, where there is competition, not only is there rivalry within existing markets but also a propensity to expand and colonize new markets. This helps to account for another aspect of the internal security ideology depicted by Bigo, namely its reach across an ever-widening spectrum of activities. As the scope of the JHA Title confirms, there has been an increasing association of issues as diverse as terrorism, drugs, organized crime, illegal immigration and asylum policy (Van Outrive, 1992c, p. 19) as components of an indivisible ‘security deficit’ in the new Europe sans frontières; this has been achieved through the development of a common discursive and institutional framework, a single ‘internal security field’ (Bigo, forthcoming). The danger thus arises that the professional ‘law and order’ perspective will marginalize other viewpoints not only over core security matters but also across broader areas of social policy, a trend which runs counter to the idea of a system of accountability responsive to a plurality of audiences and points of view.
Alternative sources of legitimacy

The political marginalization of the issue of police accountability and the development of a self-referential bureaucratic momentum would not, however, be possible, unless such developments were accepted, or at least acquiesced in, by a broader public constituency. If accountability mechanisms are only modestly developed, it must be at least partly due to the fact that international policing arrangements enjoy a degree of ‘social legitimacy’ (Weiler, 1991, pp. 2466-2474) independently of such mechanisms. In order to explore this, we must return to the theoretical source of our analysis of the three forms of accountability. In Baldwin’s original argument each of the three forms – legislative, popular and due process – corresponded to a particular type of claim to legitimacy which could be made on behalf of an institution. Alongside these formal legal or constitutional sources, he identified two other practical bases of legitimacy, namely expertise and institutional efficiency and effectiveness.

If we address these practical benchmarks, then, arguably, we encounter the developing institutions of international policing on much stronger ground. Like many public service organizations, domestic police institutions seek to enhance their status and to justify their decision making autonomy by reference to a specialist ‘knowledge mandate’ (Halliday, 1985). If policing is perceived as a matter of technical skill, then its practitioners are more likely to be treated as respected ‘professionals’ and less likely to be subjected to close scrutiny (Holdaway, 1983; Brogden, Jefferson and Walklate, 1988, pp. 80-84). Of course, this claim is made with greater and lesser degrees of conviction (Baldwin, 1987, p. 101). In many areas associated with developments in international crime and policing, however, it is particularly persuasive. Crimes of terrorism, drug-trafficking, money-laundering, art fraud etcetera, have traditionally been tackled by specialist units each claiming to possess its own particular brand of esoteric knowledge and to have its own particular, and necessarily confidential, sources and techniques of criminal intelligence. Such claims, irrespective of whether they are in principle defensible, are by their nature difficult to rebut and so tend to assume a self-justifying quality.

Relatedly, European policing institutions may also be well placed to attract public support, or at least to minimize criticism, on grounds of efficiency and effectiveness. In the postwar years, police institutions in western democracies have encountered increasing difficulty in defending their performance in terms of their traditional, symbolically potent core role of crime prevention and detection (Manning, 1977; Punch, 1985; Platt, 1987; Guyomarch, 1991; Reiner,
Instead, the inexorable rise of recorded crime has rendered domestic police forces increasingly vulnerable to value-for-money scrutiny. One response to this has been to attempt to redefine the role of the police in more modest terms, as one party to a much wider social contract to set and maintain acceptable levels of public tranquillity (Reiner, 1991). However, reduced standards of public expectations may consign the police to a 'much lower pedestal' (Reiner, 1991) in terms of social status and a reduced capacity to win scarce public resources. Accordingly, the older image of the police as the primary custodians of law and order remains potentially attractive, and continues to be emphasized in key areas of crime where a narrow audit of cost effectiveness can be criticized as providing an impoverished measure of the importance of policing.

A number of central issues within the international policing domain, in particular terrorism and drugs, are typically presented as offering such a significant threat to the social and political order that they fall into this exceptional category. And when these matters are interwoven into a single ideological fabric, a homogeneous 'internal security field', the apocalyptic metaphor of the police as a 'thin blue line' holding firm against chaos develops a powerful resonance and displaces more mundane considerations of efficiency (Dorn et al., 1992; MacLaughlin, 1992).

The nature of these practical arguments grounding police legitimacy in the international domain is such that it is difficult to test them against objective standards. Arguments in favour of technical expertise and against resort to quantifiable indices of efficiency and effectiveness, achieve a form of ideological closure. They are socially effective because they successfully elude questions about their underlying justification, not because they answer them.

However, that is not the only reason why the alternative practical grounds of legitimacy are so significant in the international sphere. It is also in part attributable to the relationship between these practical grounds and the formal constitutional grounds. Whereas in many domestic policing systems, there is a symbiosis between the practical and formal grounds of legitimacy which necessitates some care being taken with the health of both, this is not the case in the international domain. Put simply, domestic police forces typically require a steady flow of information from all sections of the public in order to exploit their expertise and achieve acceptable standards of effectiveness in crime-fighting. This information flow, however, is dependent upon a high level of mutual trust between police and public, which, in turn, is at least partly dependent upon public confidence that the police are properly answerable through constitutional mechanisms (Kinsey et al., 1986, ch. 2). In the international system, on the other hand, this nexus
between effectiveness, public cooperation and adequate accountability is much less well established. Particular sections of the public may be crucial informants within intelligence networks associated with supranational policing, but the public as a whole is not such a vital resource.

Further, as the practical arguments for according legitimacy to supranational institutions tend to emphasize their need for decision making autonomy so as not to compromise their efficiency and dilute their expertise, to the extent that such arguments are endorsed by the general public, this further limits the scope for strong accountability controls.

Finally, as we are often dealing with deviant groups which are particularly marginal to the experiences and sympathies of the majority of the general public, popular sentiment is less likely to be vigilant on behalf of those typically in conflict with the police in the key areas of supranational policing than it might otherwise be.

To sum up, therefore, the social and political pressures for police accountability are currently less strong in the international domain than in the national domain, both on account of the more compelling practical grounds of legitimacy available in the international domain and of the more tenuous relationship between these practical grounds and formal constitutional factors.

Occupational culture

Police officers of junior rank typically operate 'in regions of low visibility' (Van Maanen, 1983, p. 277), removed from direct supervisory oversight, and are required to take so many decisions in different and unpredictable circumstances that they enjoy a high degree of practical discretion. Accordingly, the task of harnessing the occupational culture of the rank and file and of different organizational segments so as to achieve internal control and coordination is one which all police organizations must confront. In turn, accountability systems which seek to exert external influence over the workings of police organizations must be properly attuned to these internal difficulties and must seek ways of addressing them if they are to be effective.

To the extent that these considerations are relevant to the operation of international policing systems, they may provide an additional reason for the prevalence of informalism, and the marginalization of the issue of accountability which inevitably flows from this. If the prospects of formal control systems are viewed sceptically, then policymakers may be discouraged from attempting to design these. Given that such attitudes are likely to be largely unarticulated, any
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assessment of their actual contribution to the tradition of informalism in the international domain is necessarily speculative. However, given the development of a more formal framework in respect of Schengen, Europol, and the JHA Chapter generally, these organizational factors will have to be squarely addressed in the future.

How significant, therefore, are cultural impediments in the international domain? In general, it seems that the secrecy and solidarity of small units and working groups which has been noted in numerous studies of police work (Skolnick, 1975, ch. 3; Reiner, 1992, ch. 3), is likely to assume a broad significance in the context of international policing. First, as the front line activities associated with international policing in all member states are dispersed across an unusually wide range of narrow specialist tasks organized into different departments, or even, as, for example, in the case of the specialist border services, allocated to distinct organizational entities, the different traditions, working practices and information networks of these different specialisms may lead to rivalry and disharmony. Secondly, as the gulf in organizational status, experience and understanding between policymaking and monitoring on the one hand, and operational implementation on the other, may be more pronounced in the international arena than in the area of purely domestic policing, the propensity of ‘street cops’ to resist or modify the designs of ‘management cops’ increases accordingly (Reuss-Ianni and Ianni, 1983). Thirdly, as the solidarity of police officers is, inter alia, a territorial solidarity (Holdaway, 1983, ch. 4), and depends upon a sense of doing the same work and sharing the same problems (Skolnick, 1975, p. 52), the extent to which operational units based in different countries and operating in social environments largely unknown to one another can work together on a basis of mutual trust and respect is uncertain. Even where a new centralized structure, such as EDU/Europol, is established, a powerful legacy of distinctive national cultures and experiences amongst its new personnel will have to be overcome if it is to become a cohesive working unit.

That these are not merely speculative hypotheses is apparent from criticism typically levelled against Interpol, for a long time the main medium of international cooperation involving the member states, as being unduly slow and cumbersome and an inadequate source and repository of information (Home Affairs Committee, 1990, pp. xxv-xxvii). Such charges are in part due to a preference within domestic policing systems for informal channels of communication, which reflects an impatience with and wariness of procedures which demand a set course of action and a detailed documentation record that may subsequently be exposed to the critical scrutiny of senior officers. These complaints are also partly attributable to the unwillingness of
operational units to expedite inquiries by responding promptly to impersonal requests for assistance from abroad, which reflects the low priority given to the needs of any group outside an officer’s operational frame of reference.

In order to achieve effective influence over an international police organization, therefore, any accountability mechanism must dovetail with a system of internal regulation which is sensitive to problems of control and coordination both within centralized European units and between those units and the national organizations with which they communicate. And just as the translation of organizational theory into operational practice is difficult in the case of Interpol with its comparatively modest terms of reference, it will be all the more so in the case of a more ambitious venture such as Europol.

**Future prospects**

None of the obstacles to the development of European police accountability discussed in the previous section is likely to recede in the near future. Indeed, particularly with respect to matters concerning occupational culture, it may be that the problems are destined to become more formidable. The most fundamental difficulty, however, will remain that concerning the sources of social legitimacy. As the citizenry of Europe has a more passive role in the legitimation of European policing institutions than it has with respect to its domestic institutions, there is at present neither a strong sense on the part of professionals and policymakers of the prudential value of accountability measures, nor a broad ground swell of popular opinion organized to make effective demands in this area (Harlow, 1992, p. 342).

It should be stressed, however, that this does not detract from the intrinsic importance of accountability guarantees in the international domain. These speak to values associated not only with democratic participation but also with the protection of individual and minority rights, values which remain significant regardless of the extent of effectiveness of and public acquiescence in particular policing enterprises. Indeed, in the case of minority rights, the extent to which they are protected against abuses of police powers varies indirectly with the weight of majoritarian sentiment in favour of the relevant police institutions and practices, a tendency which may be exacerbated given the present trend of subscribers to the ‘internal security ideology’ to target clearly identifiable and relatively impotent minority groups, in particular asylum seekers and sections of the immigrant population. If anything, therefore, the relative lack of
concerted public pressure for increased accountability currently merely underlines the need for the issues involved to be vigilantly monitored and pursued.

What practical suggestions can be made to overcome the various difficulties discussed? It is not possible here to address all aspects of this question in detail, but some general points may be made. If we start with the most basic difficulty, the privileged status enjoyed by international policing arrangements in terms of social legitimacy is not guaranteed to last. As they intrude into more mundane areas of crime and as the relative transparency of the newer arrangements encourages greater public understanding of their role, international policing activities may gradually become demystified. Like domestic police institutions in an earlier phase, international policing institutions may have to come to terms with a more critical external audience, and in turn this may generate pressure for an enhanced system of accountability.

But what of the other key macropolitical problem identified, namely the marginal status of policing arrangements in a 'post-Hobbesian' EC? A key dilemma which was identified in this context concerns how to take steps to overcome the democratic deficit at Community level without being dismissive of continuing aspirations for national control. One way of resolving this, recently advocated by the Committee on Civil Liberties and Internal Affairs of the European Parliament, is to develop joint structures of accountability. In a motion subsequently adopted by the full Parliament, the Committee has advocated new liaison arrangements between itself and Home Affairs supervisory committees in domestic Parliaments, including the possible establishment of a joint secretariat (Robles Piquer, 1993, p. 6). Of course, this is not to suggest that the powerful legacy of cultural attachment to the Hobbesian state can be summarily legislated away. However, such measures do have an important contribution to make; through treating the emerging European order as a shared, multilayered framework of allegiances, rather than simply as a new version of a unified political authority ripe to replace the nation state (Weiler, 1991, pp. 2478-2481; Walker, forthcoming), and through reflecting this novel complexity in particular proposals for the division of executive power and of public oversight, they not only demonstrate a more rounded understanding of the dynamics of European transformation but also avoid needless confrontation with nationalist sensibilities.

If we turn, finally, to the other two difficulties identified, namely the vested interests of various bureaucratic elites in the growth of the European policing market and the divisive occupational culture of police work, the focus switches to the different levels within the law
enforcement community and to their capacity to resist efforts at external influence and supervision. As suggested earlier, the issues involved are difficult, but a consideration of certain basic principles of organizational design may clarify some of the reform options available.

The most fundamental organizational choices tend to revolve around a cluster of related variables which can be mapped onto a single continuum (Walker, 1993a, pp. 134-137). At one pole is a conception of international policing as a *highly integrated* set of arrangements. The emphasis here is upon an institutional framework with jurisdiction across the range of international crimes, which merges policy and operational functions, and which establishes control by the centre over the periphery. At the other pole is a conception of international policing as a *loosely structured* set of arrangements. By contrast, the emphasis here is upon the maintenance of organizational boundaries between different functional specialisms and strategic levels, and upon the coexistence of regimes of equivalent status pitched at different territorial levels. As noted earlier, notwithstanding the advent of Europol, present arrangements are situated closer to the loosely structured pole.

From the perspective of enhancing accountability, each ideal type has its merits and demerits. The highly integrated approach eliminates the dangers of a competition between different institutions vying to demonstrate the strength of their ‘law and order’ credentials. It also has the advantage of providing a clear focus upon a single institution from which all lines of accountability should flow, and of maximizing the prospects of reducing cultural disharmony between the different components in the international policing effort. Equally, to confer monopoly or dominant police power on a single institution carries corresponding disadvantages. Its scale of operations, range of legal capacities, complexity of internal structure and nurturing of vested professional interests may render it less susceptible to external control. Further, to remind ourselves of the seductive professional and political attractions of the creation of an open-ended ‘internal security field’ in this domain (Bigo, forthcoming), it may be difficult to curb the efforts of a well-resourced and integrated organization to trespass into new policy and operational domains.

The loosely structured approach, on the other hand, has the advantage of establishing an internal and evershifting balance of power which prevents any single institution from consolidating a dominant power base and developing mechanisms to insulate itself from external control. Equally, it has the disadvantage of encouraging a competitive rivalry within the internal market of policing with potentially authoritarian consequences. It also lacks the steering
mechanisms to address problems of cultural coordination and control between different law enforcement practitioners. Finally, it presents a more fragmented, less settled and less transparent institutional field upon which accountability mechanisms require to be targeted.

If we balance these considerations, perhaps a hybrid semistructured model emerges as the most attractive option. One could, for example, design a blueprint with Europol as the dominant international police organization in its region. It would have a unified core concerned with policymaking and personnel functions. It would be surrounded by various tentacles performing limited operational functions in matters such as information exchange, crime pattern analysis, coordination of national investigations, training, technological developments etcetera, with some further division in terms of crime subject/matter. A single, albeit loosely integrated dominant organization along these lines would retain some control over coordination of staff and provide a relatively clear focus for accountability, while being less likely than a centralized organization to insulate itself from external influences and develop entrenched interests and inflexible attitudes. Furthermore, with Europol set to emerge in a series of developmental stages, representing different operational tentacles, and (barring derailment of the Maastricht Treaty) ultimately destined to eclipse Trevi and Schengen, this semistructured solution has the added advantage of following the grain of present developments.

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The transformation of Europe
European societies are modern societies. Their industrial and administrative organizations are mostly characterized by so-called imperatives of modernity. Police organizations have also increasingly become modern, formally rational structures, managed by the senior ranks. Policy objectives, the monitoring of effectiveness, a quest for demonstrable efficiency and managerial control are the hallmarks of the modern police force. It might be fairly expected that processes of modernity will greatly assist the convergence of police organizations and, therefore, police cooperation within Europe. In this article the development of management within the British police is analyzed. Attention is given to organizational features that frustrate intended changes towards modernity, especially the occupational culture of the rank and file. Further, drawing on Stewart Clegg’s excellent book, ‘Modern Organisations: Organisation Studies in the Postmodern World’, the place of societal values in processes of social change is emphasized. Cultural values may be a key variable that assists or retards police cooperation within Europe.

Modernities and the baguette

Police cooperation within Europe requires new formal agreements, organizational structures and related working practices. In modern, industrial societies – like those within Europe – bureaucratic, formally rational organizational structures have dominated the administrative and manufacturing sectors. Police and other organizations in the public sector, however, have also become increasingly dominated by rational, bureaucratic organization and the related management of the work force. These imperatives of modernity constrain and give impetus to progress. Cooperation between institutions and organizations has become a matter of finding the correct 'technical fit' within a framework of formal, rational

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organization. From the perspective of modernity, once their organizational structures are based on formal rationality, European police forces will be aligned and cooperation between them greatly enhanced.

Although an analysis of police cooperation that focuses on formal legal agreements, organizational structures and working practices is valid, it fails to take sufficiently into account crucial, cultural, value-based factors that may mould modernizing processes in unexpected directions. Cultural values are extraordinarily powerful, as are related but distinct values found in the cultures of institutions and organizations, such as the police. If greater cooperation between police forces in Europe is to develop, considerable attention needs to be given to these aspects of change. Which brings me to a discussion of the baguette!

The public demand for bread, in modern France and in other modern, industrial societies, seems voracious, just as the public demand for policing seems insatiable.2 The market for French bread is vast and, as Clegg (1990) points out, one would expect to find it baked, marketed and distributed by highly ‘efficient’, rationally organized, large companies. But, ‘French bread is not a standardised, easily transportable, mass-produced product, one whose quality is invariable’. Neither is French bread a ‘heavily marketed, brand-identified, size-invariant, shrink-wrapped and sliced product sold identically in virtually similar supermarket chains throughout the country’. It is not an easily transportable commodity capable of being mass-marketed and distributed. ‘It is the result of an artisanal rather than a capitalist mode of production’ (ibid., p. 108). Clegg goes on to make the point that the baguette, first crafted in the 1950s, ‘incorporated everything that industrial bread could not be’ (ibid., p. 110). There have been concerted attempts by conglomerates to capture the bread flour market but their considerable power has been successfully resisted by the boulangers, whose traditions and values lie in the individualism of the independent peasantry, in commitment to good husbandry and to a job well done.

So this is the baguette - a commodity sold in an enormous market but one that is not manufactured or distributed to meet customer need by what modern ‘organizations people’ describe as an efficient system. In modern societies, such as the main states of Europe, to be against efficiency is to not be modern and to ignore the demands, some would say the imperatives of a rational, means-ends system of production and exchange. To not be modern, to be against efficiency,

2 I use the term ‘modern’ in its sociological, Weberian rather than its appreciative, evaluative sense.
is virtually tantamount to a failure to understand human existence itself. If we select any other product manufactured for a mass market within the states of the European community, we are likely to find it produced by a formally rational system and, therefore, within a similar type of organization. A management consultant reporting on the efficiency of the French bread-making industry would be horrified.

What can we learn about the management of policing in Europe from this example of apparent French irrationality and ignorance? Every rational move by industrialists and their cohorts of efficient and effective managers intent on a ‘take-over’ of the boulangers has been successfully resisted. Similarly, we should expect every twist and turn of police management to be similarly constrained by the cultural values of the rank and file. Organizational change, especially change that is prompted by managerial activity, must be analyzed to take account of strategies and tactics of accommodation, resistance, acceptance – and every stance in-between – based on values taken for granted by personnel working at all levels of organizational life. These strategies and tactics are cultural resources available to personnel who manage and to those who are managed.

A recognition of the importance of cultural values does not mean that we can explain the persistence of baguette-baking within a reductionist framework of analysis. Cultural values are a key explanator of change in any organization, and vital to an analysis of the management of change in the police. However, the push and pull of cultural values must be placed within the wider context of social divisions. The persistence of social divisions within any society forms a framework of constraint around organizational and managerial developments. The structure of the peasantry constrained and continues to constrain, or enhance if you take the ‘French view’, baguette-baking in more than 50,000 bakeries. Cultural values are embedded within social divisions, neither wholly determined by or determining them (Granovetter, 1985).

Next, these points caution us to note the paucity of a managerial analysis of policing in Europe, guided by an ‘efficiency and effectiveness’ or a ‘quality control’ perspective. Efficiency and effectiveness through the pursuit of organizational objectives has nevertheless become the quintessence of English police management. How far this is true of the management of policing throughout Europe is another matter entirely. As far as England is concerned, Home Office circulars, publications written by police officers and other documents convey the clear view that the formal, means-ends, rational view of organizations is normative.

Consistent with a sociological analysis of modernity, a formal, rational view of organizations and management is virtually taken
for granted by the Home Office and chief constables (Home Office, 1983; Butler, 1984; O'Dowd, 1992). A convergence of police-organizational forms and managerial functions and processes within Europe would be anticipated by this formal rational perspective. Police forces would become increasingly organized around the differentiation of tasks, the formulation of clear objectives and action plans, the definition of monitoring indicators, and so on. But what the English take for granted may not be what our European partners take for granted!4

Research about police management in European states should reach beyond a one-dimensional analysis like this to include the documentation of diversity and convergence, of uniformity and creativity, of value-based and structure-based factors that are complexly and precariously related. A managerial analysis cannot accomplish this key task. The social sciences, not least sociology, provide the theoretical underpinning needed to research the convergence and divergence, determination and re-determination of managerial forms. A social science perspective of this type should also allow us to attribute choice to police policymakers and managers.5 Their work is not wholly constrained by cultural values or by social structures, neither is it unconstrained.

The populations of European states, in all their diversity, also have a measure of choice about whether or not they accept changes in policing wrought by rational management. Referenda about the Maastricht Treaty apart, let me repeat a question Stewart Clegg poses sharply, 'Is it possible for a French government or the European Parliament for that matter to employ a management consultant to regularise the French baking industry? Would such an elected body ever face the electorate again?' (op. cit., p. 116). It seems unlikely. Subsidiarity, a principle that has so bemused the politicians of Europe, is an inevitability, or so our sociological analysis of French bread-baking seems to indicate.

In this article, I will explore the extent to which a formal rational view of the police as an organization has influenced the development of police management in England. Virtually no systematically

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3 This is an important paper summarizing the recent themes of police management and attempts to describe how the British police will be organized and managed by 'police executives'. However, a formal, means-ends notion of policing underpins the whole paper.

4 I recommend you to taste English, supermarket bread to test whether or not our taken-for-granted assumptions about efficiency and effectiveness are valid!

5 Sociology, of course, also finds difficulty dealing with notions like 'creativity', 'freedom' and 'choice'. The history of sociology is shot through with an emphasis on determinism.
collected and analyzed information or knowledge about the management of policing in various European states is available and I therefore will concentrate on the English example. I will then discuss some of the analytical and practical problems such a perspective poses for chief officers. Finally, I want to suggest some of the implications of my analysis for the future study and management of the police.

**Police management – a modern phenomenon**

The rational management of English policing is a recent phenomenon which has been influenced far more by the policing of the United States of America than by the policing of European states. The policing of European states has provided an example of negative value for the English police. Fear about the development of a police state of the type once found in France and more recently in Germany has led us away from a view that European police structures are viable for England (see Chapman, 1968). As far as America is concerned, a major influence has been through the adoption of management by objectives, a theory first developed within the commercial and manufacturing sectors, with their notions of a product, markets, customers, and so on (Lubans and Edgar, 1979; Butler, 1984; Bradley et al., 1986).

In England, policing by objectives is a new phenomenon, superseding a militaristic model of disciplinary command. Indeed, apart from rules of police administration and the law, there was no published literature to assist the supervisory work of the senior police officer of the 1950s, and precious little to assist those working in the 1960s and 1970s. The development of a written corpus of knowledge about police management is a very recent phenomenon indeed.

Until the late 1950s, there was a strong tradition of recruiting English chief constables from the officer ranks of the armed services (Holdaway, 1977). These chief constables, who were directly recruited into the senior police ranks, did not understand their work in managerial terms. Their command of a constabulary rested on the retention of discipline within the ranks. Discipline was assured by an assumed clarity of written and verbal orders, the clarity of law and the existence of a strong chain of supervisory command. Breaches of procedural rules were dealt with by a potentially punitive internal disciplinary system.

Two important consequences followed from this militaristic style of command. First, it was a system of negative disciplinary control. Supervision was largely concerned with the discovery of breaches of
organizational rules by the lower ranks. Supervision was about what an officer should not do or be caught doing rather than what should be done competently. Perceived by senior police officers as essential for the control of the lower ranks, the tool of negative discipline, however, ensured that it was rare for supervisors to witness or receive accurate, retrospective accounts of how their 'troops' had dealt with incidents. Strong threads of secrecy and solidarity were woven to bind together and protect the lower ranks (Cain, 1973). Police supervisors had to pierce this web of secrecy and solidarity if they were to gain information about or influence their subordinate's activities. There is some evidence that they frequently preferred to entangle themselves within it, forming an even tighter web of protection around the supposedly publicly accountable activities of the police (Chatterton, 1979).

Secondly, apart from resort to a militaristic style of command, these senior officers could not lay claim to any knowledge or skills of management intrinsic to policing. They entered directly into the senior police ranks from the armed services. Their competence and legitimacy rested on the retention of a militaristic, officer status, not their possession of a specialist knowledge of policing.

During the 1960s, this basis of police legitimacy was questioned. Senior officers were increasingly required to liaise with managers working in the spheres of local authority affairs, race relations, traffic management, and so on. At this time the flow of senior officers drawn from the armed services was beginning to dry up. The 'officer entry' scheme through which they had been recruited had been reformed. A claim to militaristic status was no longer sufficient to sustain the competence and legitimacy of officers who were negotiating with academically and professionally qualified personnel. Where, then, could a new basis of police status be found?

The police response was to send officers to university to study the social sciences and other subjects that might be of relevance to policing. A 'Special Course' was established at the National Police College, training a small, selected elite of junior officers for rapid promotion to higher rank. Importantly, these were aspects of a broader change in which the police claimed professional status (Holdaway, 1977; Manning, 1977). Officers' professional status depended more on an astute public presentation of legitimacy than on management.

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6 A number of other processes should be mentioned as relevant to this claim for professional status – increasing specialization of the organization, for example, and with it the need for officers with specialist knowledge of traffic management, race relations, and so on. A related matter was the coming to public view of a number of cases in which it was demonstrated that officers had acted illegally when arresting or questioning suspects.
theory and practice. Apart from the time required to secure professional standing, their primary concern was to achieve a parity of status with the 'civilian' personnel with whom officers had to liaise. In other words, the middle and senior ranks were constructing and sustaining a presentational image of the police as having a certain competence and status, derived from membership of a profession. Impression management and stealth have remained the essence of a great deal of police administration.

Ideas about management at this time, however, were not entirely foreign to senior officers. In 1966, for example, Tom Mahir, Assistant Commissioner of the London Metropolitan Police, published a paper called 'Managing People' in The Police Journal (Mahir, 1966). We can assess the extent to which the idea of management was accepted in the English police during the mid-1960s by noting Mahir's expressed hope that his article persuades his readers that '“man management” is not a gimmick but a subject worthy of serious study. If I have done no more than that I shall not feel that my labour has been in vain' (ibid., p. 426). Mahir's paper deals with the place of leadership, motivation, morale, delegation, communication and training in police management, which contrasts with the imposed disciplinary control so familiar to supervisory officers.

The supervision of the police during the 1950s, 1960s and 1970s was more usually a matter of dealing with each incident as it arose and ensuring that the formal organizational and public accounts of police work were a reflection of the law and of police administrative rules. When visible, police management was mostly concerned with the retrospective presentation of legitimate accounts of police action, rather than an enactment of prescriptive guidance about how incidents might be handled. This is hardly surprising because, during these three decades, there were few attempts to analyze the police role itself. We now have a much clearer notion of the complexity, contradictions and ambiguities of the police mandate (Manning, 1977). We can therefore appreciate how the practice of police supervision has been an exercise in the near impossible, underpinned by the presentation of an appearance of omnicompetence.

The betrayal of this presentation of omnicompetence began in the early 1980s. Home Office researchers published a paper indicating that the impact of the police on real crime rates was questionable (Heal and Morris, 1981). The police could not control crime in a direct, cause and effect manner. This idea struck a harmonious cord.

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7 The English police do not have a mandate that is written into the law. I use the term here to summarize the complexity of the received mandate contained in a multitude of documents and beliefs.
with government ministers who, during the 1980s, were keen to cut public expenditure and to monitor its efficient and effective use. On the other hand, the rhetoric of the government at this time was one of 'law and order', with the police at the forefront of the war against crime. The police now had to demonstrate that they could prudently use their financial and other resources. The title of an important Home Office Circular of 1983 to all chief constables and police authorities conveyed the government's intention with clarity. It was called 'Manpower, Efficiency and Effectiveness in the Police Service' (Home Office, 1983). Within this new context the perspective of management by objectives found favour in the minds of some senior officers because it allowed them to be more selective about the allocation of their limited financial and other resources.

The Police Staff College did as much as any other institution to foster the popularity and broad acceptance of the management of policing by objectives. One of the college staff – now a deputy Chief Constable – published a book on the subject (Butler, 1984), and a small number of constabularies began to order their work to meet stated objectives. A notion of the determination of policy and practice assessed by the benchmark of formal rationality was finding its way into the organization of constabularies. Stated outcomes of police intervention had to be realized and, potentially at least, police managers – a term that gained popularity during the 1980s – could be held to account for their competence, or lack of competence, in meeting those objectives. One commentator has described policing by objectives (PBO) as a philosophy of management that renders 'change as a way of life' with 'an uncompromising emphasis on the importance of results. (...) With PBO nothing is sacred; the unthinkable can be thought. All value judgements are suspended until activities have proved their empirical worth, PBO abhors fudging and uncertainty' (Weatheritt, 1986). Furthermore, PBO is intended to involve all members of an organization in its formulation of and work towards stated objectives. It is not management from above by edict but intended to be a participative and consultative style of governance.

Some chief officers were opposed to this managerial fashion. There was no reform of the rank or administrative structure to accommodate a managerial perspective. The long chain of police command remained in place. However, the level of acceptance of policing by objectives found amongst chief constables was sufficient to provoke debate about how the at times contradictory requirements of efficiency

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8 This does not mean that objectives were precisely defined or measurable. There was still a largely presentational element to what for many senior officers remained little more than a style of management.
and effectiveness could be achieved by the police. There was a questioning of officers' ability to define clear objectives that embrace the instrumental and symbolic tasks required to meet them. There was a questioning of the extent to which the quality of policing could be measured. Further, doubt was thrown on the extent to which it was possible for the police to achieve their objectives by the marshalling of their own resources (Butler, 1985; Waddington, 1986; Bennett, 1991).

Attention should also be given to the impact of routine police patrolling, especially the policing of black people, on the management and governance of the police during the 1980s. In 1981, for example, serious, wide-spread disorder occurred on the streets of urban England and brought to the fore questions about the extent to which the police were using appropriate patrol strategies, particularly when policing members of minority ethnic groups (Scarman OBE, 1981). Questions about the extent to which officers accept legal notions of justice and fairness were raised by these disorders and, in turn, the extent to which senior officers were actually in control of the lower ranks was queried. We will return to these points later because, in my view, they remain essential.

One crucial effect of these criticisms of routine policing was the emphasis some senior officers began to place on the quality of police service offered to the public. Outcomes were not regarded as the only important, measurable activities of the police action. Processes of delivering police service were also to assume importance.

Research about policing by objectives in a number of forces is in progress. Typically, before the findings of this or any other related research have been considered, a new emphasis has been added to the formulation of objectives – 'total quality management'. Many chief officers now place importance on achieving a desired and specified quality of police service a constabulary offers to its customers or clients, as the jargon puts it. 'Quality control', 'quality circles' 'outcome measurement', 'performance indicators' and 'customer relations' are the bywords of this stance. One distinctive feature of total quality management is that police-organizational objectives should be closely tied to objectives the public set for the police.

Reinforcing this approach, Her Majesty's Chief Inspector of Constabulary has designed a matrix of performance indicators which in time will be routinely used to monitor the work of all constabularies. This framework of indicators was introduced in September 1991 and sent to forces with a view to gradual introduction.

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9 This is work by Michael Chatterton and Mollie Weatheritt, respectively of Manchester University and The Police Foundation.
over two years. The aim of the matrix is to measure the impact on forces of the Association of Chief Officers of Police 'Statement of Common Purposes and Values' and it includes a very wide range of indicators indeed. But Her Majesty's Inspectors of Constabulary, who are all former chief constables, stress that 'the central element of this process will be the qualitative judgement made by HMIs, based where appropriate on quantifiable information, on the organizational commitment and effectiveness in securing quality of service' (Davidoff, 1992). In time, this process will lead to the setting of more precise performance indicators and it is envisaged that, 'a form of contract between Force and a) Home Office and b) the local community (...) will specify service levels and standards of delivery at a price which would be the force budget. Each year the force would publish its targets and extent of previous achievement. It would incorporate future plans and efficiency targets agreed with HMIC. It would be a vehicle for providing a broad understanding of policing an area, and of giving some public direction to it. One might see such a prospectus being more purposeful than the current Chief Constables' Annual Reports: e.g., a document along the lines of a report to shareholders – the customers and clients of the police service. The HMIC Annual Inspection report on a force would observe on force performance with independent professionalism, indicate areas where and possibly how improvement could be achieved. Between them, the Chief Constable and the HMI would place the force in the context of policing throughout England and Wales. Of course, any broad vision will have its drawbacks, but it may nonetheless indicate the way forward' (ibid., p. 18).

Stealth may still play some part in the management of police forces but it can be seen that the Home Office, resonating the views of some chief constables, has firmly placed senior officers within an instrumental context. This is a context requiring a formally rational, modern understanding of the police organization.10

Consequences and effects

This brief discussion of the history of English police management leads us to consider the design of a comparative, European analysis. It is a history offering us a series of ideal types which are representative

10 It is therefore not surprising that in a recent speech to an international conference about policing, an English chief constable described officers holding his rank as the chief executive of their force or, more accurately, their service (O'Dowd, 1992).
of management within a wide range of European police forces. More precisely, it allows us to locate European police forces on an analytical continuum. A police force with a militaristic command structure resting on disciplinary authority imposed by senior ranks is at one extreme of the continuum. At the other extreme there is a force with a problem-solving approach which works towards the formulation of agreed objectives, led by a chief executive and management team sensitive to data about public expectations and evaluations of the police. We certainly need to define more clearly the criteria that allow us to place individual cases at similar or different points on the continuum I propose. The extent to which a mission statement, action plans and evaluative measures are found in a force will, for example, lead us towards its managerial end. So, we could consider a sample of European forces to assess the extent to which they approximate to the pattern of modernity.

This, however, is merely a prelude because I have so far dealt with organizations as formal structures. We need to keep in mind the example of the baguette, which has stubbornly resisted modernity. First, organizations are not essential, formally rational phenomena. They may be better understood as multitudes of rationalities that vie with and yield to each other as formally rational accounts of prospective and retrospective action are constructed. We get a hint of this view in Mollie Weatheritt's consideration of the effects policing by objectives may have on police forces. Weatheritt, on the basis of an implicit sociology of management as a social construction, argues that rational analysis is a two-edged weapon. A more realistic view of what can be achieved by policing innovations may be less attractive than it seems. The police are right to ask that they should be judged accountable for the right things to the right degree, and rational analysis is, on the face of it, a powerful tool for establishing what the boundaries to the possible are. But a more realistic idea of what the police can achieve will not necessarily reduce the pressure on them to present themselves in the best possible light (Weatheritt, 1986, p. 123).

How far the police construct presentational accounts of having met defined objectives through rational means is not yet known. Michael Chatterton's study of community constables' and supervisors' responses to the introduction of a management scheme based on the systematic, computerized use of crime data indicates that officers work as Weatheritt suggests. Chatterton's findings are likely to be replicated in other forces (Chatterton and Rogers, 1989). My recent study of the recruitment of black and Asian people into the British police indicates that very little formal management has shaped this area of work (Holdaway, 1991).
We can strengthen this point by substantial evidence from English and American studies suggesting that managerial ranks do not significantly control the rank and file. Changes in policing at the level of policymaking and management are by no means straightforwardly reflected in consonant changes of behaviour within the lower ranks. Values and strategies of work lodged in the occupational culture have provided the benchmark of rationality against which the effectiveness of rank and file policing has been assessed. Police organizations are characterized by multiple rationalities rather than a dominant, formal rationality.\textsuperscript{11} Rank and file officers, we know from research, are committed to and act on a view that policing is primarily concerned with crime-fighting; with holding back total chaos within the population, the police being the first and last bulwark against extreme disorder; with a belief that police work is shot through with action; with officers fulfilling a mandate to maintain total control over the geographical area they police; with racialist and sexist language and, to some degree, discrimination that are not regarded as unduly offensive; and with a view that personal respect shown by members of the public towards officers is indicative of respect for the police per se (Skolnick, 1966; Cain, 1973; Chatterton, 1976 and 1992; Manning, 1977; Holdaway, 1983; Smith et al., 1986).

These core features of the occupational culture, identified once again in a recent, excellent observational study of three London police stations (Keith, 1993), seem to have remained stable for over twenty years of research, resisting significant managerial, policy-led reforms. They contrast with a more managerially oriented view that the objective of the police is to maintain a publicly agreed, contractual level of social order within a community; members of the public, 'customers' as they are now called by many senior officers, being centrally involved in deciding priorities for their local police. Policing from the managerial view is not an action-oriented pursuit of catching criminals and dealing with troublemakers but centrally concerned with peace-keeping, using a wide range of conciliatory strategies and tactics within a wide framework of discretion. Criteria for assessing the quality of police service are not those of whether or not police control is sustained when an incident has been tackled, maximizing action and excitement, or making arrests. Criteria like perceived courtesy and plain explanations of police action by officers, taking into account the needs of victims, a customer's view about the quality of police service received, and so on, are crucial indicators of

\textsuperscript{11} Multiple rationalities between the different ranks and, I suspect, if we were to research them, within both senior and junior ranks.
effectiveness from a managerial perspective. Rather than the agency that itself controls a population, police are one agency amongst many that cooperatively serve the public. Gender and racial prejudice and discrimination are prohibited within a commitment to equal opportunities. In these and other ways, we have a conflict between the objectives of police managers and those of the rank and file.  

Given that policing is usually undertaken in situations without the immediate presence of a supervisor; that supervisors depend on their subordinates' retrospective accounts of their actions; that little attention has been given to managerial training for lower level supervisors; and that senior officers have tended to understand policymaking as writing policy, resourcing it and issuing a written order that does not include other, key elements of implementation, it is not surprising that the powerful traditions of the occupational culture remain in the ascendancy. The ultimate task for police managers is, therefore, one of changing the powerful and deeply embedded values of the occupational culture, which seems to be a far more difficult task than the introduction of management systems per se.

Culture, ethics and organizational change

The challenge to organizational reform presented by the occupational culture is now recognized by some senior officers, but ideas of how it might be changed are not well formulated. This, for example, is Sir John Woodcock, at the time the highest ranking police officer in England, addressing a recent international conference on policing: 'The first message of my address is, therefore, that the working culture of the police service is shot-through with corner-cutting and with expediency' (Woodcock, 1992). Quoting from a newspaper interview with the newly appointed Commissioner of the Metropolitan Police, Paul Condon, Woodcock went on to describe the legacy that needed to be overcome by police managers of the present and future. Condon described the police service he joined in 1967 as 'fairly

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12 I have detailed some core values of the occupational culture. There are different styles of policing, different specialisms and therefore a variety of police work around the core. The key point is that officers whose style deviates from normative values and behaviour have to justify their action as more adequate than their colleagues who do not stray from occupational norms.

13 It has taken chief officers about fifteen years to admit to the existence of what they now sanitize as 'canteen culture'. My estimate is that it will take a minimum of a further fifteen years of concerted managerial activity to bring about real changes within it.
brutal, poorly trained and poorly educated, despite its rosy image' to which Woodcock added 'The work place values of the modern police service have not yet fully cut free of the past and the police service faces a massive task, if it is to hold, as the community now demands, integrity and respect for human rights above all other considerations' (ibid., p. 7).

This recognition by many chief and senior officers that the occupational culture is a major organizational problem, is new and rests upon assumed progress on a number of fronts. Notice, first, Her Majesty's Chief Inspector of Constabulary use of the term 'human rights'. There is within the English police a rather sudden appreciation of the ethical context of policing, which has not been brought about by failures of management as much as by evidence of injustice through the police abuse of their legal powers (Association of Chief Police Officers, 1990). There is evidence that chief police officers are now concerned to gain the commitment of their subordinates to a 'Common Statement of Purpose and Values' for the police service. Within this scenario, the lower ranks must act in strict compliance with rules governing the enforcement of the law – and, as a consequence, some guilty people may go free. This stance contrasts with the rank and file emphasis on the conviction of guilty people, with a light touch on the means of achieving that end.

An accent on the ethics of policing and its implications for the management of constabularies is very important but it does not solve the decades-old problems posed by the occupational culture. Ethical principles are always contextualized when applied in practice, including the practice of policing. No guarantee can therefore be given that the lower police ranks' acceptance of a statement of policing principles will adequately focus their attention on the means of realizing goals and away from the ends of those goals as a good in itself. Further, English society does not have a strong tradition of human rights – certainly not as strong as many of our European partners – and appeals to rights are rare in our society. Neither are people necessarily influenced to change their behaviour by an appeal to abstract ethics. The appeal to recognize the ethical basis of policing is extremely important but seems to slightly miss the mark.

Injustice is usually the end result of the police misuse of power. The defining characteristic of the police is, as Egon Bittner pointed out long ago, 'the legally legitimate use of force' (Bittner, 1970). The use of force and power in the interests of justice can be constrained by an appeal to transcendent ethics, but this is a very long-term strategy to change the occupational culture. Breaches of police policy and of law may be understandable within the context of the conflicts and ambiguities of the criminal justice system and of public
perceptions of justice. A notion of human rights, however, is a feature of an indivisible ethics.

A breach of these ethics that is defined as an act of injustice requires the use of disciplinary control by senior police officers rather more than the persuasive techniques of management. Some acts of injustice can be restored by conciliation, but most acts of police injustice cannot wait for the persuasive restoration of right by negotiation and settlement. Much injustice, not least that committed by police officers in their daily work, requires the use of discipline and a related sanction and it is senior officers who must enforce that discipline.

Unlike workers in many industrial and commercial organizations, the goods the police use as their primary working resources render them publicly accountable. When used improperly, these same resources can straightforwardly infringe human rights. Ironically, this means that the enforcement of discipline is a central aspect of police management — the very heart of the old militaristic command structure from which modern police mangers wished to free themselves — and a crucial feature of modern policing. I speculate whether or not a management consultant reviewing a modern constabulary would produce a report concerned with the importance of discipline within management! 14 There seems to be significant conflict between the pursuit of human rights, the use of discipline as a resource and the pursuit of managerial efficiency in police work.

Finally, there is one further constraint that does not paralyze the management of the police, but certainly curtails it. Being a state institution, the police routinely sustain the social divisions of a society. There is no direct causal effect of social divisions on rates of disorder and criminality but, though complex, there is a relationship between the two. The police, as the primary institution mandated to retain particular definitions of order and law within a society will therefore inevitably sustain the very social divisions that threaten such order. This does not render police officers to the status of puppets of the political state but is a reminder of the inevitable (and obvious!) fact that there are limits to the extent to which policing can serve the whole of a society. There is a virtual inevitability that their work will be framed by conflicts which have their origin in economic, political and cultural divisions. The equal treatment of people

14 There is no space to develop the point here, but Michael Chatterton's important work on the use of information technology by the police leads him to argue that such technology and the use of the HMIC's matrix of performance indicators and other management devices can expose the low visibility of routine policing to greater public view.
demanded by the notion of human rights ensures an evenness in the application of police procedures but it does not place the gift of acceptable levels of societal order in the hands of police officers to manage as they wish.

This point requires us to remember that the management of the police is concerned with the limited impact of policing on levels of public order and crime. Again, there are signs that some senior police officers recognize the weakness of the police as much as their strength. The public consequences of the police portraying themselves as unable to give the gift of complete social order or of being able to dramatically reduce crime, have not been fully explored but they are surely considerable.

We do not know the extent to which the police of each European state are embedded within the particular constraints of a distinct social structure. This is nevertheless an important area of relevance to the study of police management within Europe. Decisions to allocate resources to sustain public order rather than to direct crime control, or to public consultation, need to be understood within the wider constraints of social structure.

Conclusion

There are some indications that in the very near future the English police will be radically reformed to enhance the managerial competence of senior officers. A Home Office Enquiry, chaired by an industrialist, with a majority membership of people in managerial positions, has been investigating the structure and conditions of service of the police service (Home Office, 1993). The members of the enquiry team are dismayed at the standard of much police management. It seems that the militaristic rank structure which has survived for so long will be radically reformed. The managerial performance of senior officers will be weighed more carefully when promotions are made. A sharp distinction between the reduction of crime and the reduction of other manifestations of social disorder will be made. New organizations may be created to undertake the social service functions of policing, to free the police to concentrate on crime control.

Just how far these ideas will become a reality is not clear. Their keynote seems to be the clearer differentiation of organizational functions, the quest for a management structure based on function rather than on historical precedent and the efficient use of limited resources to strengthen the primary task of policing defined as the reduction of crime. If implemented, these reforms will be entirely
Modernity, rationality and the baguette

consistent with the modernization of the police. They may set the themes of a closer convergence of police organizational and managerial forms within Europe. However, if they are based on a formal rational view of the police as an organization, they will flounder. If they neglect the public beliefs and values of English society that associate the police with a very broad mandate indeed, they will falter. 'What survives organisationally may not be most efficient but survives because at some time in the past of the organisation it came to be instilled with value in the institutional context. (...) The triumph of efficiency has no necessity attached to it. Practices may well be valued for and in themselves, irrespective of their contribution to the efficiency of the organisation' (Clegg, op. cit. pp. 160-161).

Remember the baguette!

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Where does politics meet practice in establishing Europol?

J. Wilzing, F. Mangelaars

The following article is not a scientific report, but presents information regarding the making of policy to combat organized crime. The first part gives an outline of developments regarding organized crime and the establishment of Europol. The second part focuses on opinion. The bottlenecks in international police cooperation in the fight against organized crime are considered from the police point of view. Subsequently, attention is given to what a Europol organization, which is the institutionalization of international police cooperation, should be able to offer as regards solving these bottlenecks. The last section questions whether this all fits in with the political/judicial context.

Organized crime

Apart from estimates, little is known about the seriousness, the nature and the size of organized crime in Europe. Nevertheless, these days organized crime is regarded in Europe as a serious threat to society. The embedment of the underworld in the upperworld is recognized in many countries as one of the biggest societal problems (cf. Van Duyne et al., 1990; Bovenkerk, 1992). The following remarks on the situation in the Netherlands serve to illustrate matters. It is quite conceivable that there is the risk of internationally operating criminal organizations settling in the Netherlands, given its very open borders, the excellent infrastructure, availability of good telematic equipment, the favourable geographical location, and the lenient penal environment. For instance, the number of liquidations related to criminal organizations has increased rapidly over the last few years: from 5 liquidations in 1985 to an estimated 30 in 1993. It is heard more and more that uninhibited expansion of organized crime can pose a threat to the state's security.

1 Respectively head and policy adviser, National Criminal Intelligence Division (CRI), Dutch National Police Agency KLPD, Europaweg 45, 2711 EM Zoetermeer, The Netherlands.
Apart from committing property crimes, the principal activity of criminal organizations is traditionally focused on trafficking in illegal goods and services. The worldwide trafficking in soft and hard drugs, including chemical drugs, as well as arms-trafficking has generated gigantic profits (Wiebrens and Roëll, 1988). It is known how monies are utilized in the various phases of a criminal organization. The first phase is oriented to raising one's standard of living, the optimalization of one's comfort. When that is accomplished, the protection of the organization's continuity is given consideration. Lastly, excess profits are laundered, so that funds can be utilized lawfully. Acquiring power, status and prestige round off the process.

Complex legislation and differences in norms and ideas in the European countries have resulted in the sluicing of criminal profits of hundreds of millions of guilders to the legal circuit. The results of the informal Disclosures Office, existing for over a year now at the National Criminal Intelligence Division CRI, to which suspect office transactions are reported by 25 institutions, have been remarkable. In the first six months of 1993, for instance, suspect transactions, totalling 140 million guilders, were reported.

Moreover, the still more complex, detailed European legislation, which proves by definition to be fraud prone, plays into the hands of internationally organized criminal organizations. According to experts, the chances of making profits, e.g. in the field of EC fraud, evasion of VAT and Customs and Excise rates, are even better than those of drug-trafficking. EC fraud in the Netherlands is estimated to total between 70 and 350 million guilders. In the years to come it is expected that this type of fraud will increase by 25 percent owing to the rise in EC subsidies to non-agricultural companies (Stichting Maatschappij en Politie, 1991).

Europol: a Trevi initiative?

Since the sixties the German government has been active in the institution of police cooperation with neighbouring countries, evidenced, for example, by the establishment of informal cooperation between chiefs of police in the border region of Belgium, the Netherlands and Germany in 1969 (Fijnaut, 1992a). This form of cooperation and other German initiatives in the field of police and judicial cooperation have gradually led to the German concept of Europol. It is best expressed in the proposal made by the German delegation at the European summit in Luxembourg in 1991\(^2\).

\(^2\) 'But before everyone has woken up, at about 6 a.m., a piece of text is pushed
Where does politics meet practice in establishing Europol

which reads that Europol should first be a liaise station for the exchange of information and experience, and that, during a second phase, room should be made for powers to even act in member states.³

In his contribution to the magazine Die Polizei, Mr Seiters (1993), the former German Minister of the Interior, gives an even clearer picture of the German concept of Europol’s future: ‘Für die effective Bekämpfung der internationalen Kriminalität wird aber der reine Informationsaustausch auf Dauer nicht ausreichen. Wir benötigen zusätzlich zu den Polizeien in den Mitgliedstaaten eine europäische Polizei, die auch über Ländergrenzen hinweg tätig werden kann und exekutive Befugnisse besitzt.’ (In the end merely exchanging information will not be sufficient to effectively combat international crime. Apart from member states’ own police forces, a European police force is needed, with cross-border powers and executive authority.)

In view of the aforementioned development, it is hardly surprising that Germany presented to the international forum, including the so-called Trevi group, its ideas with regard to combating organized crime, through a Europol organization.⁴ In 1987 they presented a document, entitled ‘Comments of the German chairmanship regarding the agenda for the meeting of Trevi Working Group III’. It was recommended that an inventory be made of countries with a Drugs Intelligence Unit and how these units were organized. With reference to the inventory, the German chairmanship described a Drugs Intelligence Unit structure which strongly resembled the Bundeskriminalamt. The United Kingdom, probably inspired by the ideas about establishing its own National Criminal Intelligence Service, brought up this point during the following chairmanship, presenting a text containing guidelines for establishing National Information Units, in order to bring about harmonization of working methods and requirements. Under the Spanish chairmanship in 1989 the UK pointed out that it was necessary to establish National Intelligence Units in each country as a basis for a European Intelligence Unit. At any rate, the minister decided in the latter half of 1989 that the member states should proceed to establish these national organizations. Also, German proposals were put forward to utilize the European Secretariat of Interpol for establishing a Central

³ Quotation from the proposal made by the German delegation at the Luxembourg Summit (Rupprecht, 1992).
⁴ Trevi is assumed to be a known fact. For further information and the placing of this consultative body in the European perspective cf. Mangelaars (1992).
European Unit! Other possibilities had to be examined, to which end a working (sub)group was set up. During the Trevi III meetings under the Irish chairmanship (1990) it was clear that the delegations subscribed to the need for centralization and coordination, at the European level, of information on drug-trafficking. For this purpose, most countries supported the German proposal to set up a European Drugs Intelligence Unit (EDIU). In the so-called Action Programme of Dublin, established by the ministers responsible on June 14-15, 1990, it was therefore mentioned that a study should be made of the need to set up a EDIU (Fijnaut, 1992c).

The proposal for the development of a EDIU was to be submitted to the ministers' meeting in Rome, in the hope that they would make a decision about it. It was, at any rate, not to be presented after the ministers' meeting in Luxembourg (1991). Under the Italian chairmanship, it was announced that the work could be rounded off soon and that the implementation of the project would be possible under the Luxembourg chairmanship. Under this chairmanship, however, there was the threat of a (procedural) delay, because there was a call for the setting up of a working group to study the matter further. Also, during the meeting of Senior Officials the problem of where the Unit should be located came up! Apparently, the delay was not acceptable for the German delegation, which presented a proposal during the European summit, which has been dealt with earlier.

Police cooperation to suppress organized crime

Although in a political sense the establishment of a European police organization is a fait accompli, we must investigate which of the problems in international police cooperation can be solved by establishing such an organization. To be able to answer this question, the Dutch National Criminal Intelligence Division CRI made an inventory early in 1993, under the title: 'What do the Dutch police expect from Europol'. In other words, what practical problems are we experiencing in the Netherlands in the field of international police cooperation within the framework of the fight against international forms of organized crime?

The possible solutions which existing forms of cooperation, such as ICPO/Interpol, could offer, have been taken into account. Of course,

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5 As is known, the Trevi meetings are secret, and therefore it is not possible to refer to source publications. The points have been described following a study of the reports of Trevi III since 1987.
the first question is what the nature and extent of internationally organized crime actually is. Since there are insufficient data at the international (European) level, there is very little, if any, insight into the problem. A policy cannot be determined with respect to containment and suppression of crime, since strategic and general management information is not available. Loose data must be gathered. A method is required to systematically gather the data. In this way a threat analysis, indispensable with regard to organized crime, can be made. Apart from a strategic aspect, there is also an operational aspect to the collection and analysis of data.

There are no integrated intelligence systems at the European level. Both the UK and the Netherlands have adopted crime analysis methods from the USA. They have been refined and developed into a consistent system of criteria for recording certain data, reliability codes, processing codes etcetera. It is here that considerable differences exist between European countries, making comparable analyses impossible. Fortunately, positive developments have taken place in Trevi. A first step is to use the same terminology. An international training programme for crime analysts has been set up to increase uniformity. Crime analysis is of great importance to crime detection and investigation. It is also the area where police practice and science meet. Traditional CID tactics are complemented by knowledge from the organizational sciences, psychology etcetera. The efficiency and effectiveness of criminal investigations in suppressing organized crime can only be optimalized if innovative elements are added to the traditional ways. It is felt nowadays that the widest possible range of approaches should be applied to criminal investigations, e.g. from legal experts, accountants, criminologists etcetera.

Traditional crime investigation methods are based on experience. Much experience is lost, however, due to the fact that international investigations are often conducted on an ad hoc, case-by-case basis. In the Netherlands, for instance, it has been found that on every occasion that an enquiry is instituted against the highly organized Turkish gangs, a lot of effort is required to obtain basic knowledge, whereas much knowledge is lost again when enquiries are concluded. To improve this situation, a number of special teams have been set up to combat internationally organized crime. The teams need contact points abroad, as well as a sort of European support, i.e. criminal information and analysis on a European level. Information coordination (also at the international level) is of the essence when combating organized crime. After all, it is especially in these complicated enquiries that the proverb ‘everything is interrelated’ holds true. This implies that there should not only be a structured
possibility for harmonization between crime investigation teams of the police itself, but also between teams of the police, customs service and special investigation services. There must always be possibilities to set up international networks.

For effective cooperation between all the services with a police duty, it is of course necessary that conditions must be created for rapid exchange of the most recent information. Currently, there is no harmonization at a European level of enquiries, and consequently, it is not possible to link the various enquiries with international aspects. So, provisions must be made rapidly to ensure good communication between the various teams in European countries.

Coordination should not only take place in the field of information exchange, but also in the field of (international) development and application of police methods and tactics. At the moment, the application of special investigation methods, including surveillance, infiltration/undercover operations, liaison officers, technical support, satcom, is insufficiently coordinated. This has led to situations whereby in one enquiry several investigation units from different European countries had deployed undercover agents, a very undesirable situation indeed!

So, technically speaking, investigations are still far from perfect. Financially speaking, in European countries, the separate development of all sorts of often expensive investigation equipment is unprofitable, and will in the long run clearly hamper international cooperation owing to the lack of communication between the systems.

Also, the procedures for using these police methods and techniques are not consistent, which complicates cooperation in international enquiries. Instances are: controlled delivery, protection of informers, and payment of informers. If, for example, a controlled delivery must be organized involving the transportation of soft drugs from Morocco, via Spain, France and Belgium to the Netherlands, a host of magistrates and chiefs of police must be consulted. So, a lot of energy and time is lost. The differences in legislation in this field and other fields are additional complicating factors.

The rapidly evolving 'information society' in the seventies and eighties made it necessary to enact laws to protect the privacy of the individual. In many European countries this resulted in the creation of detailed and complex privacy legislation. It does not always comply with the need for effective crime suppression, in which effectiveness and decisiveness (e.g. linking computer data and files) are central. In this respect, the legal provisions relating to international legal assistance, with the corresponding procedures, which date back to the fifties and the sixties, are thought to be time-consuming and laborious.
The added value of EDU/Europol

In the Netherlands, a so-called sounding board group, with representatives from the Police, the Public Prosecution Service, the Customs Service, and the Ministries of Justice and the Interior, critically follow the developments regarding the establishment of the Europol organization. The standpoint this group has adopted, inter alia on the basis of the aforementioned problems, can be summarized as follows: EDU/Europol gives added value by focusing on finding solutions for existing problems and needs in international police cooperation in combating (internationally) organized crime. Anything which does not contribute to this will be looked at with Argus’ eyes. The desired added value of Europol can be formulated on the basis of the afore described problems and bottlenecks.

Judicial added value
Eventually, the Europol convention should contain a judicial provision enabling the exchange of all sorts of investigation information. In police terms, this would consist of so-called soft and hard (criminal) information. The various privacy regulations in European countries would as a consequence not apply. In the pre-convention phase, another idea would be to develop international judicial expertise to advise police services as to the most efficient way to overcome formal barriers in international police and judicial cooperation.

Informative added value
This refers to the informative crime investigation assistance in enquiries, plus the development of policy frameworks regarding international forms of serious, organized crime. In order to achieve a joint, European intelligence system, it is necessary that European data structures, recording criteria, and codes inter alia regarding reliability, are set up, which would enable joint crime analyses. In order to conduct these analyses, criminal information registers with respect to running enquiries must be set up and maintained. For the formation of strategic policy frameworks, it is also relevant that risk analyses are generated and presented and that advice can be given about how to overcome barriers in investigation cooperation.

Developing expertise
Acquiring expertise in typically European forms of crime (e.g. certain

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6 This section was prepared in close cooperation with the Dutch representatives in the project team at Strasbourg.
forms of environmental crime) and the setting up of information systems that are not oriented to phenomena can be added value. Moreover, Europol can supply added value by improving the cooperation of liaison officers from the member states’ so-called ‘third countries’, i.e. non-EC countries. Also advantageous would be the coordination at the European level of the use of expensive investigation equipment.

**Quality of the investigation information**

Reducing the number of stations through which information is exchanged will facilitate updating and improve the quality of information. The quality is further improved by checking, where necessary, the completeness of the information exchanged. Europol will gain value by serving as the centre recording new intelligence and operational investigations with international aspects, as well as being the centre recording the use of special investigation techniques in these international investigations. By fulfilling a network function within Europe, Europol would stimulate the harmonization and exchange between Custom Services and other special investigation services.

**Bridging cultural differences**

In this respect we can think of the development of police methods and techniques, resulting in uniformity in their application. The treaty provides built-in guarantees to bridge the existing lack of mutual trust. In addition, it promotes mutual understanding of national as well as joint interests.

As may be clear from the above, it is not so much an executive police service, functioning at the European level, that is regarded in the Netherlands as being necessary, but rather a police service which would assist in the operational tasks of organized crime suppression.

**Can ICPO/Interpol provide this added value?**

It should be noted that merely comparing Europol to Interpol is something like comparing apples to pears. Europol for instance is for the time being an organization formed by 12 states, whereas Interpol’s membership is composed of 175 countries. The term ‘trust’ as a basis for improving international police cooperation consequently has a total different dimension. Incidentally, Europol is regarded within Interpol as a market on its own. There is a so-called European Regional Conference (formed by 27 countries) and a European Contact Officers System, enabling rapid exchange of information.
Moreover, the European Secretariat has been expanded by the European Liaison Bureau, to which police officers from a large number of European countries are seconded.

A difference with Europol is found in the political accountability. Interpol is ruled by the General Assembly, which is not composed of politically accountable authorities, so politically backed innovations are not feasible. For the rest, political consensus cannot be attained, given the number of countries that are attached. The lack of political accountability and the size of the Interpol organization makes it very hard to bring about juridical regulations, e.g. in the field of privacy. It should be taken into account, however, that the European Interpol countries in particular are fully convinced of the necessity to respect each other’s rules. It has been agreed that abusing or disrespecting limiting measures will lead to exclusion.

It is sometimes held against Interpol that it would be too non-committal an organization, in the sense that there would no obligations to supply data and comply with agreements reached at conferences. In the future, Europol would be able to enforce compliance. This viewpoint, however, needs to be explained, for it has already been mentioned that there is the possibility of a sanction (exclusion of a certain country from membership in Interpol). In the study that was conducted in 1993 at the request of the European Regional Conference, there is much emphasis on the question whether agreements are met by countries.

The conclusion is that with its market orientation Interpol provides the European countries with facilities that meet their wishes. This fact, together with Interpol’s excellent, almost world-wide data communication network, may not lead to one overshadowing the other. Interpol and the Europol to come should be able to make use of each other’s possibilities, with Interpol possibly being Europol’s eye on the rest of the world. Organized crime, in fact, does not stop at borders, and this also applies to the European borders.

The political frameworks proposed for Europol

The obligation to undertake efforts to establish Europol is laid down in the Maastricht Treaty. Title VI, article K1, sub 1 through 9, of the Treaty contains provisions regarding cooperation in the field of justice and interior affairs (security). The question is whether the proposed political and judicial frameworks offer sufficient space to meet the requirements of the practical situation. It should also be noted that the principal directive is still in the process of being prepared, namely the convention for the establishing of Europol.
Said article K1 reads: 'For the purpose of achieving the objectives of the Union, in particular the free movement of persons, and without prejudice to the powers of the European Community, member states shall regard the following matters as areas of common interest: combating fraud on an international scale (5); judicial cooperation in criminal matters (7); customs cooperation (8); police cooperation for the purposes of preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European police office (Europol) (9)'.

It is worth noting that a number of crime phenomena are mentioned, e.g. fraud, terrorism, drug-trafficking, and moreover other serious forms of internationally organized crime. It has become clear from the above that internationally organized crime is not restricted to one single phenomenon. However, it is safe to say that a criminal organization often has one principal line of business, e.g. drug-trafficking, apart from which it is often also involved in other crime forms, e.g. slavery, fraud.

It has therefore been indicated that the Europol organization should also set up information systems that are not phenomenon-oriented. The Maastricht Treaty would not exclude this. Nonetheless, the future Europol Convention could still get in the way, if the extension of Europol's tasks (originally the suppression of drug crime) to other serious forms of crime is controlled by very strict rules and/or procedures. A good description of objectives, political accountability (provisionally the 'line' Ad Hoc Group Europol, Senior Officials, Ministers), planning and control cycle (activity plans and result control programmes) and the powers with respect to the control-related affairs (daily decisions within the Europol organization) should furnish the necessary guarantees for a transparent structure with respect to the responsibilities. This would remove the fears of an uncontrollable organization, and enable flexible adjustment to the practical situation (such as extension of tasks related to other serious forms of crime).

Article K1 also provides possibilities for the advocated cooperation between police and customs services. Other important frameworks can be found in the so-called (and previously mentioned) Attachment to the Maastricht Treaty, which deals with five additional concrete tasks regarding the exchange of information and experience, i.e.:
- assistance to member countries in the field of the coordination of investigation and detection;
- establishment of databases;
- centralized evaluation and management of information on account
of research into investigation methods;
- prevention strategies;
- training, investigation, criminalistics and forensic anthropometry.

The first of these tasks fits in perfectly with the coordination of information and activities, such as updating and improving the quality of information, serving as a centre to which enquiries and the application of special investigation methods are reported, all of which functions the organizations in the field have suggested it should perform. Tasks such as establishing databases and centralizing evaluation and management of information, for research and investigation methods, comply with the practical wishes in the field of the Europol's informative added value, such as setting up and managing information systems with corresponding data structures, criteria, and the carrying out of crime analyses. Central databases will substantially facilitate exchange of information, owing to the fact that instead of the current multiplicity of regulations in the various countries, only one legal system would apply. Preparation of prevention strategies would meet the desire to generate more strategic policy-oriented information and to present risk analyses. The final task (training, investigation etcetera) will enable the desired development of police methods and techniques towards the desired uniformity.

It would be getting too far from the subject to compare meticulously the practical desires with the present political and judicial frameworks. Such detailed comparison would show that the practical needs are covered by the frameworks mentioned. Whether this will remain the case, depends on the Europol Convention, which is now being prepared under the auspices of the Ad Hoc Group Europol. This contribution will hopefully provide material for discussion, when the Convention is drafted, and the further developments regarding the establishment of a Europol organization.

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Police observation and the 1990 Schengen Convention

Hans Bevers

International crime-fighting and especially police cooperation is a hot issue these days. It is being addressed in numerous forums like the United Nations, Interpol, the Council of Europe, the European Community, Trevi and Schengen (see Joubert and Bevers, 1992; Fijnaut, 1993). The Schengen Agreement and Convention are treaties between a number of EC countries that sought to create a border control free zone before this idea was adopted by the entire community. To compensate for the border control that was to be abolished, they decided that the possibilities for international police cooperation in the fight against (organized) crime had to be improved, especially since criminals would surely take advantage of the abolition of border controls. As a result, the Schengen Convention contains a multitude of rules and regulations for further development of international police cooperation. On the one hand it sets out to improve the possibilities of exchange of information and the international technical and telecommunication networks and on the other hand, it creates police powers in the field of cross-border observation, cross-border hot pursuit and controlled delivery. Even

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2 Agreement of June 14, 1985 between the Governments of the States of the Benelux Economic Union, The Federal Republic of Germany and the French Republic, on the Gradual Abolition of Checks at their Common Borders (published in the Dutch Tractatenblad 1985, p. 102), and Convention Applying the Schengen Agreement of June 14, 1985 (official texts in French, German and Dutch are published in Tractatenblad 1990, p. 145). Because an authentic English text of the Schengen Convention does not exist, the terminology used in this article is taken from the English translation by the Schengen/Benelux secretariat, as published in Meijers et al. (1991).
though the provisions in the Convention are very elaborate, some aspects of the competences that were created have remained unclear. This is partly due to the fact that the terminology that was used does not necessarily have the same meaning in all the different countries. In this article, I will try to illustrate this by examining the way in which cross-border observation is regulated. This form of cooperation was first introduced by the Schengen Convention and would appear to be an important innovation in international police cooperation, a subject that merits more detailed research.3

To start with, I will briefly discuss the importance of police observation for modern criminal policing. In the second section the conditions, possibilities and limitations of the regulation provided by the Schengen Convention will be outlined. The third section will give a comparative overview of statutory law and other regulations pertaining to police observation as they exist in the founding states of 'Schengen': the Netherlands, Belgium, Luxembourg, France and Germany. With the results of this comparison I will present a new look at some aspects of the Schengen provisions in the fourth section. In the conclusion, some attention will be paid to the question, whether or not observation as a police inquiry method should be based on statutory or other legal provisions.

As for the terminology that will be used: in some languages and countries, the subject of this article would be called 'surveillance', whereas other languages and countries (like my own) prefer 'observation'. The main reason for my choice for the use of 'observation' is, however, that this terminology is used by the (unofficial) English texts of the Schengen Agreement and Convention.

The importance of police observation for criminal policing

Observation is a police technique that – in the form of general street surveillance – was among the first activities employed by state forces

3 Competences such as cross-border hot pursuit and controlled delivery are not completely new. They were introduced before, by the 1962 Benelux Treaty on Extradition and Mutual Legal Aid in Criminal Matters (Verdrag tussen het Koninkrijk der Nederlanden, het Koninkrijk België en het Groothertogdom Luxembourg aangaande de uitlevering en de rechtshulp in strafzaken, published in Tractatenblad, 1962, p. 97), respectively the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (published in Tractatenblad, 1989, p. 97).

4 Marx describes 'passive surveillance' as a covert, non-deceptive police action (Marx, 1988, p. 12). 'Surveillance' is also used by Helsdingen (1987) and Tabarelli (1987).
fulfilling police tasks: the members of these guards’ units walked around, watching events happening around them without being watched, in order to intervene if necessary. During the twentieth century, and in Northwestern Europe particularly during the last three decades, the character of crime has changed, namely in the increase of serious and organized (cross-border) crime (see Kaiser and Albrecht, 1990; Van Duyne et al., 1990; Fijnaut and Jacobs, 1991). Traditional police powers and investigation are not sufficient for investigating organized crime. This is mainly due to the fact that the offences associated with organized crime are not often reported to the police, either because there are no victims (e.g. consensual crime which includes most drug offences, smuggling of arms and other contraband) or the victims are unaware of the crimes (e.g. in fraud or environmental crime cases) (in the same sense Marx, 1988, p. 13). This leaves the police with very few traces and little evidence, particularly against the bosses in the background. They lead their crime company in a business-like manner, prepare their activities well in advance and have the actual criminal offences committed by others, who are much lower in the hierarchy. In order to find evidence of the involvement of certain persons in these types of crime, police forces developed more intensive and more efficient ways of gathering information: observation techniques (see also Helsdingen, 1987).

One can distinguish numerous types of observation: public or private, static or dynamic, short-term or long-term, with or without the use of technical aids, construction of movement patterns of a specific person or vehicle etcetera. It is evident that these different forms can also be combined, executed in teams and in cooperation with foreign police forces.

The information gathered by observation can be used for several purposes: in the first place to construct evidence against a suspect or possible suspects of a crime that has been committed (repressive) or is yet to be committed (pro-active). The information can also be used to analyze the structure of a criminal organization or to support other police actions against the organization (e.g. to keep an eye on a police infiltrator). Finally, it can also be used to prevent the offence taking place (e.g. in case of armed robbery) or to ensure that criminals are caught in the act.

Conditions, possibilities and limitations of the regulation

Article 40 of the Schengen Convention provides a basis for border-crossing by police officers during observation of a suspected criminal, if a certain number of conditions are fulfilled. The first condition is
that the observed person is presumed to be a participant in a criminal act to which extradition may apply. The 'extradition element' of this condition is clear but the 'participation element' is not. Given its explanatory statement, the Dutch government seems to agree with most authors that the article not only allows the observation of a person who is under suspicion of having committed such a criminal act, but also the so-called pro-active observation of a person who is presumed to be preparing the commission of criminal offences in the (near) future, as well as the pro-active observation of everyone who is in contact with such a person (Den Boer, 1991; Fijnaut, 1991a; Memorie van toelichting, explanatory statement of the Dutch government, 1991). This interpretation, however, seems to go too far; the French, German and Dutch texts of the Convention all demand that the offence be already committed.

The second condition is the authorization of the cross-border observation by the state on whose territory the observation is supposed to take place. This authorization, that may be subject to conditions, has to be given in response to a request for assistance which has previously been submitted. Officers observing a person presumed to have committed one of the offences listed in paragraph 7, may also continue their observation without prior permission of the other state when, due to the urgency of the case, this permission cannot be requested beforehand. In that instance, the authorities of the territory where the observation is taking place must be notified immediately of the crossing of the border and a request for their assistance must be submitted to them without delay. The observation shall be interrupted either upon request of the competent authorities or, in the case that no reaction to the notification or the request is obtained, five hours after the border has been crossed.

Furthermore the cross-border observation is only allowed under a number of general conditions: the officers conducting the observation must be able to show their official function and must carry a document certifying that authorization has been granted (unless they crossed the border without permission in case of an emergency; after the observation is finished, they must report to the local authorities who may also require that the observing officers appear in person; during the observation the officers must comply with the provisions of article 40 of the Convention, as well as with the law of the state on whose territory they are operating; they may carry their service weapons unless the state involved specifically decides otherwise; the weapon may only be used in case of legitimate self-defence; the observing officers are neither allowed to enter private homes and places nor to challenge or arrest the person under observation.

Most of these general conditions are quite clear and indeed seem to
be very practical, but some of them need to be commented upon. One must wonder what an officer is supposed to do with his service weapon when, during an observation in his own country, he suddenly has to cross the border and is not permitted to cross the border with it? He cannot reasonably be obliged to throw it away or to take it to a police station before continuing the observation. And what if an officer, during a cross-border observation, is a witness to a criminal act by the person he is observing: does he have the right to arrest this suspect in the act, just as any civilian (national or foreign) can, or is this forbidden in accordance with article 40 par. 3 sub f? It must be considered as a shortcoming of the Convention that it does not answer the question, as to what the consequences should be if one or more of the general conditions are not fulfilled. Would all the information gathered be considered as illegally obtained so that it could no longer be used as evidence? Or would it be used anyway, in which case one might ask why these conditions have been formulated at all? A third remark to be made is, that the observing officers are supposed to comply with the legal provisions of the state where they are operating whereas they have only been trained to work within their own national laws, which means they will have to become familiar within the law of neighbouring countries as well (in the same sense Fijnaut, 1991a).

A more serious problem is that the Convention does not define the term 'observation'. In general this term could be explained as 'watching without being watched'. Eventually, even policing techniques such as controlled delivery and infiltration could be considered as special forms of observation. The fact that the contracting parties have judged it necessary to draft a special regulation for controlled delivery, which can be found in article 73 of the Convention, shows however that they probably did not intend to use the word 'observation' for other policing techniques. For that reason it can be concluded that article 40 of the Schengen Convention cannot serve as a basis for cross-border infiltration. Another question regarding the interpretation of the term 'observation' in the Convention is whether the use of technical apparatus such as cameras, binoculars, telescopes, infra-red cameras, 'bugs' or long-distance microphones, hidden position transmitters or radio beacons ('beepers') and audio and video recorders is permitted or not during a cross-border observation. The text of the Convention itself does not contain or suggest an answer to this question. Considering the fact that the observing officers have to comply with the law of the state on whose territory the operation takes place, this will therefore depend mainly on the local legal provisions.

A special form of observation is mentioned in article 73 of the...
Convention: as far as possible under their constitutions and national legislation, the Schengen countries are obliged to allow the exercise of controlled delivery on their territory. This method, previously introduced by the UN anti-drugs treaty of 1988, means that intervention against illegal (drug) transports is postponed in order to get to know more about the organization behind the transports or to enable the arrest of the persons behind the couriers as well. The final decision to allow controlled delivery is left to the local authorities who will also stay competent to intervene at any given moment. Here again one wonders whether or not this term has the same meaning in all the contracting countries. Finally, it has to be mentioned that this policing technique seems to encourage the phenomenon of forum shopping: by permitting a transport to pass through more liberal countries, police and judicial authorities can ensure that drug traffickers are arrested in the country with the most severe penalties (Mols and Spronken, 1990, p. 48).

An important innovation is introduced by article 92 of the 1990 Schengen Agreement: the Schengen Information System (SIS). This computerized international database, that can be fed by all participating countries, will contain information on persons and objects being sought by the participants or against whom the authorities of neighbouring countries should be warned. Being able to inform police officers abroad about persons or vehicles involved in the commission or preparation of serious offences (article 99) is especially likely to be a great help in cross-border policing in general, and observing in particular.

Comparing legal bases and limitations in five Schengen states

In order to determine whether or not the police in the Schengen countries have the power to observe and to what extent, it is necessary to examine several fields of law that can contain restrictions. In the first place, police power limitations can be found in law relating to police powers and tasks, like Police Acts and Codes of Criminal Procedure. In the second place, because the rule of law implies that the police themselves are not allowed to commit criminal offences either, limitations of their powers can be derived from rules that prohibit certain kinds of behaviour. Finally, it is obvious that their powers are restricted by general rules and principles (e.g. constitutions), which also function as a source of inspiration for the other two categories of legislation.

The federal Supreme Court in Germany (Bundesverfassungsgericht) for instance, decided that the constitutional protection of individual
freedom (as guaranteed by the articles 1 and 2 of the Constitution (Grundgesetz)) also implies an individual right to information self-determination (informationelle Selbstbestimmung), the right to decide and to know for which purposes personal data are to be used. An important consequence of this decision is, that for every police measure infringing the private life of individuals, a basis in statutory law is required. The German legislation on this matter therefore contains, both on a federal level and in the statutory law of the provinces (Länder), a great number of detailed rules as to the gathering of personal data by police operations, including observation. The matter is dealt with in the (federal) Code of Criminal Procedure (Strafprozeßordnung, StPO), that was already on the verge of being altered by the Organized Crime Act5, as well as in the Police Acts (Polizeigesetze) of practically all of the sixteen provinces.6 The federal rules are restricted to situations of repressive policing (i.e. following suspicion that the crime has been committed), whereas the provincial acts are not meant to regulate criminal proceedings but to create rules and powers for preventive policing. As we will see later on, the German law on this point also distinguishes different types of observation. Apart from these provisions on procedure and powers, the German Criminal Code (Strafgesetzbuch, StGB) also protects the privacy of citizens by prohibiting the breach of domicile, prohibiting the infringement of the privacy of mail and the overhearing of telephone and other private conversations without permission.7

The elaborate German system of legislation concerning observation as a police power seems to be unique, at least among the five countries to be studied here. This does not mean, however, that the other four countries do not have any regulation of the matter at all; on the contrary. Similar, although less detailed provisions on observation methods exist in Belgium. The main difference with the German situation is, that the Belgian provisions are not laid down by law but by ministerial guidelines, and these guidelines having confidential status.8 The Belgian Constitution (Grondwet, GW) does not provide

5 Act for combating the illicit traffic of narcotic drugs and other manifestations of organized crime (Gesetz zur Bekämpfung des illegalen Rauschgifthandels und anderer Erscheinungsformen der Organisierten Kriminalität), BGBI., no. II, 1992, pp. 1302-1312. The act has been in force since September 22, 1992.
6 Note that the situation in Germany, where this matter is regulated in more than twenty different Acts (the Constitution, Criminal Code, Code of Criminal Procedure and some Acts on federal police forces, and the Police Acts of 16 federal provinces), is so complicated that it is impossible to present more than a rather generalized summary.
7 See articles 201-205 StGB.
8 Directives concerning special techniques of investigation to fight serious or organized crime (Richtlijnen betreffende bijzondere opsporingstechnieken om de
for general protection of the private life of citizens; it only guarantees the protection of residence and of privacy of mail, both of which are also protected by the Criminal Code (Strafwetboek, Sw). Finally, Belgian law prohibits the overhearing of private telephone conversations.

In the Netherlands, observation is also the subject of ministerial guidelines, but unlike the Belgian situation, the Dutch guidelines have been published officially in the form of a decree. Another difference is that the Dutch guidelines deal with observation in an implicit way only. Their main subject is the gathering of criminal intelligence in general and the functioning of the criminal intelligence department (Criminele Inlichtingendienst, CID). Apart from that, the Dutch Supreme Court (Hoge Raad, HR) has decided that police officers are competent for observation on the basis of their general task description in article 28 of the Police Act. More generally, the right to privacy in the Netherlands is guaranteed by article 10 of the Constitution (Grondwet, GW), as well as by some prohibitions in the Criminal Code (Wetboek van Strafrecht, Sr), that criminalize breach of domicile and the use of optical or acoustical technical means to observe or record a person's private life or to overhear one's telephone conversations. Exceptions to these prohibitions have been made for telephone-tapping during a criminal inquiry, as well as for the overhearing of telephone and other private conversations by the secret service. Statutory law on similar exceptions for overhearing private conversations by the police is pending.

The French legislator has not created any statutory or other provisions on police observation, but under certain general conditions the use of observation as a policing technique has been allowed by the jurisprudence, as long as no coercive methods are used and the dignity of justice is respected. This may also contain a certain respect for privacy, which is not explicitly mentioned in the constitution, but has been recognized by the Constitutional Council as being one aspect of individual liberty as guaranteed by the 1789 declaration of rights.
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(Favoreu and Philip, 1991). Apart from this, some privacy protection is offered by provisions in the New Criminal Code (Nouveau Code Pénal, CP), which, like its predecessor, criminalizes the breach of domicile and the privacy of mail, as well as the overhearing or observing of conversations or meetings in private and public places with technical means, if this infringes the privacy of the participants.15

The situation in Luxembourg is similar to the one in France: provisions of statutory or other nature with regard to the use of observation during criminal inquiries do not exist, but in practice the use of the method is considered permissible within certain limits. According to Luxembourg police officers, the Grand Duchy follows a practice of observation that is mainly based on the same rules as the ones that are laid down in the Belgian guidelines. Luxembourg does not have any general constitutional provision on privacy, but the Protection of Private Life Act criminalize breaches of privacy by overhearing or observing conversations or meetings in private places.16 The same articles also protect the privacy of mail and states that telephone-tapping and opening of letters may be permitted under certain circumstances.

Observation units

Even though observation is a basic policing technique that – in the form of patrol – every police officer is familiar with, some forms of it, like observation with technical instruments and long-term observation have also become a specialism. Therefore, most of the countries studied here have founded specially selected, trained and equipped observation units. In the Netherlands, the activities of the observation units have been coordinated by the National Contact Group on Observation (Landelijke Contactgroep Observatie, LCO) since 1972 (Helsdingen, 1987, p. 23). Luxembourg also has specialized general observation units and in Belgium, one can distinguish the Group for Shadowing and Observation (Groep voor schaduwing en observatie) within the Judicial Police (Gerechtelijke Politie) as well as several groups, units and brigades in the State Police (Rijkswacht or Gendarmerie). Like Belgium, Germany has different types of observation units. Based on a decision taken by all the ministers of the Interior, every German province has a so-called

15 Respectively in the articles 226-4, 226-15 and 432-9, and 226-1 CP. The New Criminal Code of France was supposed to enter into force in September 1993. Article 368 of the former Code Pénal did not forbid the overhearing or observing of private meetings in public places.
16 Articles 2 and 3 of the Loi concernant la protection de la vie privée, August 11, 1982, Mém. 1982, 1840.
Effective Mobile Unit (Mobiles Einsatz Kommando, MEK). These units do not operate in the general field of serious crime, but were founded and trained especially for cases of kidnapping and terrorism. Apart from these MEK's, observation teams also exist within the police forces of several provinces working on drug cases and other sorts of crime (Tabarelli, 1987, p. 81). Unlike the other countries, France does not have any specialized observation units, though some services evidently have more experience in this field than others.\textsuperscript{17} According to a spokesman, the main reason for not having specialized units is, that most of the general police forces do not have the technical and financial means to execute long-term observations.

\textit{Technical means}

In order to increase their effectiveness, observing police officers and observation teams may employ technical aids, which can be divided into optical devices (such as binoculars, (infrared) lenses, cameras and (automatic) film or video apparatus), and acoustical devices (like direction-finding transmitters (or radio beacons), telephones, (directional) microphones, recorders, bugs and even laser microphones). As we have already seen, it is unclear if the use of these methods is permitted during cross-border observation on the basis of article 40 of the Schengen Convention. The only Schengen provision that could be relevant here is, that 'the officers conducting the observation must comply with (...) the law of the contracting party in whose territory they are operating' (article 40 par. 3 sub a). Since all of the Schengen partners have (statutory and other) rules that can apply to the implementation of technical means during observations, the extent to which the different legal provisions correspond or collide with one another is a subject for further study.

\textit{Optical devices in public areas}

France's New Criminal Code prohibits the practice of overhearing or observing meetings and conversations with a private character, whether they take place in private or in public places. The use of optical devices during observation in public areas is therefore forbidden. The legislation of the other four countries studied does not essentially stand in the way of such operations: they are not criminalized in any of these countries, so they must be considered as being permitted in principle. In the Netherlands, Belgium and Germany, more information on the use of optical devices during

\textsuperscript{17} A police unit with special experience in this field is for instance the Anti-gang Brigade (Moréas, 1985).
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criminal inquiries was found: photographs, taken of a (future) suspect who was observed in public were explicitly accepted by the Dutch Supreme Court as evidence.18 In Belgium, the aforementioned guidelines state that this method is subject to special conditions and that the use of legally forbidden technical aids is prohibited, without explaining which aids are forbidden.19 In Germany, an explicit legal regulation for this investigation technique exists on a federal level as well in some of the provinces.20 In all three of the countries, it will depend on the case in question if the collected information is accepted as evidence. The central criteria will be, if the principles of proportionality and subsidiarity were respected: is the measure not too severe in comparison with the crime? Are there any other methods which can be used to achieve the same result? According to the German provisions, observation with technical apparatus outside a private place, for the purpose of gathering information of what happens inside, has to be considered as observation in a private area, which is subject to other provisions. Although this has never been decided or confirmed officially, this would make sense for the law of the other four countries as well.

Optical devices in private areas

When it comes to observation with optical devices in private areas, the situation is quite different: essentially, this is forbidden in all five countries, even though most of them also know some exceptions to this rule. In France and Luxembourg this is forbidden unless permission has been given by the subject being photographed.21 In the Netherlands, the use of secretly taken photographs of a person in a private place is a criminal offence if this can possibly damage the rightful interests of the person being photographed (article 139f Sr). This provision also restricts the opportunities for the police to take photographs during a criminal inquiry: when a crime is discovered

19 Or even where such criminalizations could be found; the Belgian Criminal Code does not seem to contain any of them.
20 See e.g. articles 100c par. 1 Code of Criminal Procedure, 15 and 17 Police Act NW, 25b Police Act RhPf, 27 and 28 Police Act Srl.
21 For France, see article 226-1 CP, for Luxembourg, see article 2 sub 2 Private Life Act. In France, some authors used to think that this criminalization would not bar intrusions into private life if these were carried out by or based on an order given by the investigating judge. However, since the judgment of the European Court on Human Rights in the Kruslin and Hüvig cases, it is clear that this interpretation cannot be considered in accordance with article 8 of the Convention; see Blontrock and De Hert, 1991-1992.
while being committed (a caught-in-the-act-situation), pictures of the scene may be used as evidence, but filming an alleged criminal in his home in order to gather information about his contacts or his way of life has to be considered an illegal breach of his privacy and is therefore not permitted. In Germany and Belgium, secret photography, even in private places, is not explicitly forbidden or penalized. None of the five countries has an explicit statutory regulation for the use of optical aids during criminal inquiries. The Belgian guidelines only allow the use of technical means under special conditions and require that the used technical aids employed are not legally forbidden. Whether the results can be admitted as evidence will depend on the proportionality and subsidiarity in the actual case. Germany has recently undertaken some serious discussion about the introduction of photo and video surveillance in private places. Being warned by the commotion this generated, federal government finally decided to take this policing technique for criminal investigations out of the Organized Crime Act because of the risk of jeopardizing the entire bill. However, in most of the German provinces photo and video surveillance in private areas is allowed for the prevention of immediate danger, and in some provinces this technique may also be used for collecting information on persons who are under suspicion of preparing an offence out of a catalogue of serious crimes. In all five countries, photographing and filming of meetings in private places is not allowed if it implies breach of domicile, notwithstanding the fact that all countries know regulations for entering and searching domiciles without permission of the owner.

Acoustical devices in public areas
The Luxembourg legislation contains no explicit police competence for overhearing private conversations in public areas. Since the Luxembourg law does not know any criminalization of such operations either, this method has to be considered as being allowed in principle. Belgium does not know any explicit statutory rules on this matter either, and the guidelines only state that the acceptability of the results of this policing technique will depend on the proportionality and subsidiarity in the actual case. The Dutch

22 In the same sense: J. Remmelink in his commentary to this article in: Noyon, Langemeijer and Remmelink, Het Wetboek van Strafrecht, Arnhem.
23 The opinion of the federal government is expressed in their Explanatory Statement to the Organized Crime Act (Begründung der Bundesregierung zum EorgKG); see also Hilger (1992), Gropp (1993) and Liskens (1993). Meanwhile, the Ministry of Justice seems to be preparing a new bill on this method.
24 E.g. articles 17 par. 2 Police Act NW, 28 par. 4 Police Act Srl.
25 E.g. articles 33 par. 2 Police Act Bay and 25b Police Act RhPf.
legislation contains a clear prohibition of the overhearing of private conversations in public areas, unless the overhearing takes place with the consent of at least one of the participants to the conversation (see article 139b Sr). This creates the possibility to overhear conversations in which a police infiltrator or informant is assisting. The overhearing and recording of all kinds of private conversations, even without the presence of police undercover agents, will probably be introduced by the aforementioned bill that is pending in parliament (see note no. 13). The French law, on the contrary, forbids eavesdropping without consent on conversations of a confidential or private nature, regardless of the area where they take place. In Germany, the unauthorized overhearing or recording of private conversations is a criminal offence as well, whether these conversations take place in private or in public: the character of the conversation is the determining factor (see article 201 StGB).

However, special competences for overhearing conversations with a private character as a criminal investigation method have been created by the Organized Crime Act (see article 100c par. 1 StPO), whereas most of the provincial Police Acts contain such a competence for the prevention of danger and gathering of information on alleged criminals.26

It may be very helpful for observing police officers if a person or object they are following transmits a signal that is received by the observer, so that the position of the observed is frequently indicated. With the help of such position transmitters or 'beepers' it is a lot easier to trace the address or shelter of an observed person, his contacts or his hiding-place for contraband or a ransom. The use of these position transmitters is not criminalized in any of the studied countries, and the method seems to be practised in all of them. With regard to Luxembourg, no more information on this matter could be found, whereas in Belgium, these transmitters have to be considered among the technical means that, according to the guidelines, are subject to certain conditions. There is no doubt that in the Netherlands and in France 'beepers' are used, even though there is no legal regulation or guideline and the police are highly reticent when it comes to admitting in public or even in court that they have been used. A statutory basis for the use of direction-finding equipment is being created in the legislative project mentioned above (see note no. 13); in Germany, such a legal basis exists already.27

26 E.g. the articles 18 par. 1 Police Act NW, 25b par. 1 Police Act RhPf and 28 par. 1 and 2 Police Act Srl.
27 See article 100c par. 1 sub 1 StPO as well as most of the state Police Acts.
Belgian legislation does not contain any provision with regard to the overhearing or recording of conversations in private places. The guidelines on special investigation techniques only submit the use of technical means to special conditions and repeat that the use of legally forbidden technical aids is not allowed. The overhearing or recording of meetings in private in itself is not penalized, but breach of domicile in order to install technical devices in private places would be a criminal offence and therefore not permitted. Whether information from overheard private conversations is admitted as evidence in a criminal procedure will mainly depend on the proportionality and subsidiarity of the measure in the actual case. In the Netherlands, Luxembourg and France the use of acoustical aides when observing a meeting in a private area is a criminal offence, unless consent has been given by the participants. According to Dutch law, the consent of only one of the participants in the meeting is sufficient, so that the use of acoustical aides in combination with a police infiltrator or informant is allowed. In Luxembourg and France permission is required to be given by the person whose words are being overheard, which means in practice that the consent of every participant in the meeting is necessary. Apart from this, the Dutch 'eavesdropping bill' mentioned before intends to create a power to overhear and record conversations in private places without any of the participants knowing, as well as the power to overhear conversations in private places (houses, cars, boats, airplanes, hotels etc.). For this purpose it will even be permitted for the police to break into a private residence in order to hide microphones and other equipment. In Germany, overhearing private conversations as an investigation technique has been a central discussion theme since the end of the eighties, during which not only the constitutionality but also the usefulness and practical need of the measure were put up for debate (see a.o. Seifert, 1992; Lisken, 1993). Until now, no statutory provisions on bugging private places in criminal inquiries have been accepted: as mentioned before, the federal parliament did not want to introduce such a police power in the Organized Crime Act, which means essentially, that eavesdropping in private residences is forbidden according to article 201 StGB. Exceptions to this criminalization have been created by most of the provincial Police Acts, in which a police competence for the bugging of private places is regulated. The main condition for the use of this technique is, that it be necessary for the prevention of immediate danger or for the collection of information with regard to persons who

28 See the articles 139a Sr, 2 sub 1 Private Life Act and 368 CP (226-1 NCP).
are under suspicion of preparing serious criminal activities in the near future.29

A special way of using acoustical devices in private areas is the attachment of a micro transmitter or body recorder in order to ensure the protection of a police infiltrator or other undercover agent.30 The legal status of this technique, that may also be used for overhearing private conversations, as long as they take place in the presence of a wired undercover agent, is divergent. Since the Luxembourg police (at least officially) does not employ infiltration, this observation technique is not used and therefore needs no regulations. The Belgian guidelines submit the use of all technical means to special conditions and require that it be according to the principles of proportionality and subsidiarity. In the Netherlands, this technique seems to fit exactly into the exception in the articles 139a and 139b Sr: both of these provisions require the permission of (at least) one of the participants in a conversation in order to take away the criminal character of the operation, and this one person could be a police infiltrator. Apart from this possibility, the new bill on eavesdropping, that is pending in parliament now, will create an explicit legal basis for this method of policing. As stated earlier, according to the French article that criminalizes the use of recording devices to overhear private conversations without permission (article 226-1 CP), the consent of all participants in the conversation is necessary. Thus, the use of wired police infiltrators is not allowed, since France does not know another statutory provision that could create or support such a competence. In Germany, this method is principally considered as a preventive measure against immediate danger, which is not a federal but a provincial task. For this reason, the federal legislator did not want to legislate on this subject, whereas regulations exist in the Police Acts of most of the provinces.

A method of overhearing private conversations that is much more common and well-known is telephone-tapping. Under certain conditions, this is allowed in Luxembourg, France, Germany and the Netherlands.31 Up to now, the Belgian legislator has not wanted to sanction the use of overhearing and recording telephone conversations in a criminal inquiry. Recently, Belgium did introduce a less invasive method for controlling telephone calls, the call registration. This

29 See e.g. articles 17 and 18 Police Act NW, 28 par. 3 and 4 Police Act SrI, 25b par. 2 Police Act RhPf, 34 Police Act Bay.
30 Among experienced undercover agents, the use of being ‘wired’ is widely discussed: some insist on being wired because of the alleged protection, others refuse to do so because of the alleged danger.
31 For Luxembourg in article 88-1 CIC, for France in article 100 CPP, for Germany in the articles 100a and 100b StPO and for the Netherlands in 125f Sv.
Table 1: Legal basis and limitations of police observation by technical means; an inventory of five Schengen states

<table>
<thead>
<tr>
<th></th>
<th>Netherlands</th>
<th>Germany</th>
<th>Belgium</th>
<th>France</th>
<th>Luxembourg</th>
</tr>
</thead>
<tbody>
<tr>
<td>optical devices in</td>
<td>not forbidden; allowed by jurisprudence</td>
<td>not forbidden; allowed by federal and provincial law</td>
<td>not forbidden; allowed by guidelines unless forbidden method</td>
<td>forbidden unless consent of all; no allowance created</td>
<td>not forbidden, no regulations</td>
</tr>
<tr>
<td>public</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>optical devices in</td>
<td>forbidden unless consent of 1 person; to be regulated in new bill</td>
<td>not forbidden; explicit powers created by provincial law</td>
<td>not forbidden; allowed by guidelines unless forbidden method</td>
<td>forbidden unless consent of all; no allowance created</td>
<td>forbidden unless consent of all; no allowance created</td>
</tr>
<tr>
<td>private</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>acoustical devices in</td>
<td>forbidden unless consent of 1 person; no regulation</td>
<td>forbidden; explicit powers created in provincial law, not in federal law yet</td>
<td>not forbidden; allowed by guidelines unless forbidden method</td>
<td>forbidden unless consent of all; no allowance created</td>
<td>not forbidden, no regulation</td>
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<td>public</td>
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<td>acoustical devices in</td>
<td>forbidden unless consent of 1 person; to be regulated in new bill</td>
<td>forbidden; explicit powers created in provincial law, not in federal law yet</td>
<td>not forbidden; allowed by guidelines unless forbidden method</td>
<td>forbidden unless consent of all; no allowance created</td>
<td>forbidden unless consent of all; no allowance created</td>
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<tr>
<td>private</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>wired infiltrator</td>
<td>not forbidden since consent of 1 person; explicit basis in new bill</td>
<td>forbidden; explicit powers created in some provincial law, not in federal law</td>
<td>not forbidden; not mentioned in guidelines</td>
<td>forbidden since no consent of all; no allowance created</td>
<td>forbidden since no consent of all; no regulation needed since no infiltration</td>
</tr>
<tr>
<td>telephone-tapping</td>
<td>forbidden; registration and overhearing regulated</td>
<td>forbidden; registration and overhearing regulated</td>
<td>forbidden; only registration regulated</td>
<td>forbidden; overhearing regulated</td>
<td>forbidden; overhearing regulated</td>
</tr>
</tbody>
</table>


surveillance measure, that already existed in the Netherlands and in Germany, creates the possibility of monitoring whether telephone contacts between certain connections have taken place and how long they have lasted.32

**Controlled delivery**

This form of observation was introduced internationally for the first time by article 11 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and is mentioned in article 73 of the Schengen Convention as well. Among the five countries studied here, only France has created a legal basis for controlled delivery: their Public Health Act (Code de la Santé Publique) since 1991 distinguishes between delivery under surveillance and controlled delivery. The first technique implies that a drug transport is followed from the outside without intervention, the latter is a way of controlling a drug transport by, or with help from, persons involved in the transport itself (i.e. using undercover agents). It is evident that both of these forms can be carried out with combinations of all of the techniques mentioned earlier. The French text of article 73 of the Schengen Agreement only mentions the possibility of delivery under surveillance, thus excluding the use of police infiltrators in cross-border controlled delivery. Whether this interpretation also applies to the other (partly) French speaking countries (Belgium and Luxembourg) is unclear. The distinction is made by the French legislation only, but then again, France is the only country in which legislation on this subject exists. In Belgium, controlled delivery is regulated in the aforementioned guidelines. These do not distinguish between delivery under surveillance and controlled delivery. In Luxembourg, no information about the use of controlled delivery is available, but because of the fact that the public prosecutor has the power to decide whether or not he will prosecute (the principle of appropriateness), the Code of Criminal Procedure does not seem to stand in the way of this technique. The Netherlands and Germany do not know any explicit rules about controlled delivery either, but in both countries this technique is used and accepted33, even though in Germany this seems to contradict the principle of legality. This principle, one of the central principles of criminal

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32 In Belgium, this technique is based on article 88bis Sv, in the Netherlands it is regulated in article 125f Sv and its basis in German law is article 12 Telephone Hardware Act (Gesetz über Fernmeldeanlagen). For Belgium, see Deruyck (1992, pp. 10-15); for Germany, see Klesczewski (1993, pp. 382-389).

33 At least, according to Tabarelli (1987, p. 80) and the public prosecutor in Frankfort, H.H. Körner in an interview with Neue Kriminalpolitik 1992-2, p. 18.
procedure in Germany, obliges the prosecutor and the police to open an inquiry or prosecution whenever they are informed that a criminal offence has been committed.

Application of police observation techniques

Because of the extent to which private life can be invaded by police observation, especially when special techniques are being used, and also because of the costs and intensive work that go with these methods, the implementation of systematic observation is often restricted to specific cases. For that reason, some of the countries studied here have included criteria varying widely in detail for the employment of observation techniques in their legislation or guidelines. On the one hand, these criteria can contain detailed catalogues of offences for which certain forms of observation are permitted, on the other hand they can also be general conditions or limitations, like the restriction that a particular method may only be used in case of offences for which pre-trial detention is allowed.

Article 40 par. 1 of the Schengen Convention restricts the possibility of cross-border observation with prior permission of the neighbouring state, to criminal offences which may lead to extradition. Cross-border observation without prior permission of the country on whose territory it will be carried out, is only permitted if the offence is listed in par. 7 of the same article.34 Two general restrictions that can be found in all countries, are the principles of proportionality and subsidiarity: special observation measures may only be employed in the case of serious crime and when their use is necessary for the success of the investigation. The Dutch guidelines on criminal intelligence services do not contain any explicit restrictions for the use of structured observation, but generally focus on serious or frequently committed offences and organized crime. Like the Dutch Supreme Court, they allow the observation not only of suspects but also of persons who are not yet under suspicion but might eventually become so in the near future (pro-active observation).35 Apart from that, the provisory registration of information on persons with whom the aforementioned CID-subjects are in contact (the so-called grey field subjects), is permitted as well.

34 These are: assassination, murder, rape, arson, counterfeiting, armed robbery and receiving of stolen goods, extortion, kidnapping and hostage-taking, traffic in human beings, illicit traffic in narcotic drugs and psychotropic substances, breach of the laws on arms and explosives, use of explosives and illicit carriage of toxic and dangerous waste.
The overhearing and recording of private meetings, for which a competence is to be introduced by the 'eavesdropping bill', will only be allowed in cases involving serious criminal offences, but the technique may be applied for repressive as well as for pro-active purposes. Installing 'bugs' in private residences without the owner knowing will be restricted to cases of serious, organized crimes, punishable with maximum prison sentences of at least eight years. The registration and tapping of telephone conversations is generally restricted to the investigation of crimes for which pre-trial detention is possible, i.e. crimes punished with a maximum prison sentence of four years or more. In Germany, the application of long-term and other special forms of observation, just like telephone tapping and registration, is generally restricted to suspects of one of the offences mentioned in the catalogue in article 100a StPO. Nevertheless, most provincial Police Acts also permit the use of observation (but not the use of telephone taps!) against persons who are either supposed to represent a certain risk to other persons' lives and goods, or suspected of preparing crimes of significant proportions (Gropp, 1993, p. 29), to be committed in the near future (pro-active observation). Finally, in some provinces overhearing and video surveillance are not restricted to the suspects themselves but are also allowed against the suspect's professional, social and family contacts. According to the Belgian guidelines on this matter, all sorts of observation may essentially be applied in cases of organized crime and serious crime in general (like kidnapping or hijacking)\(^3\), and no rule seems to stand in the way of pro-active observation against these categories of offences. The registration of telephone conversations in Belgium is not limited to certain types of crime or to specifically described offences. France and Luxembourg, finally, do not know any official restrictions with regard to the use of observations against specific persons or in specific situations. According to several spokesmen, in France these decisions are left to the police officer or investigating judge who is in charge of the inquiry.\(^3\) However, telephone-tapping may only be used for the investigation of crimes

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36 This restriction was made by the Belgian Minister of Justice, Mr Wathelet, during his interrogation by the so-called Gang-committee (Bendeecommissie). This parliamentary committee examined the (dis)functioning of the Belgian justice system during the investigation of some severe gang crimes and political terrorism during the seventies and eighties. See Enquête parlementaire sur la manière dont la lutte contre le banditisme et le terrorisme est organisée, Documents imprimés, 1989-1990, 59/8-10, esp. p. 231.

37 Together with Chantal Joubert, the author had the opportunity to speak with some highly placed officers within the Gendarmerie as well as with a retired officer of the Police Nationale.
punishable with a maximum prison sentence of two years or more. As to Luxembourg, the situation seems to be similar to the one in France, except for controlled delivery, which in France is explicitly limited to cases of drug offences.

Controlling authorities

A final important matter to be studied is, which authorities are in charge of the operations that have been described? Are the police allowed to decide themselves whether or not they employ certain investigation methods, or are these decisions left to other authorities? Most freedom and independence seems to be given to the Luxembourg police: all decisions are left to the police officer who is in charge of the operation concerned. The only exception to this is, that a decision about telephone-tapping has to be taken by the investigating judge. This is also the case in the other countries, though in Germany, in case of urgency a temporary order may be given by the prosecutor. In Belgium, the registration of telephone conversations may be ordered by the investigating judge only, whereas in the Netherlands this is a power of the public prosecutor. The French rules also leave the decisive power for observation operations to the police officers in charge, except for delivery under surveillance and controlled delivery: for the former, it is required that the public prosecutor be informed, for the latter, prior authorization of the public prosecutor or the investigating judge is a condition. In the Netherlands, generally the head of the observation unit concerned is the person who decides on the methods to be used. Repressive or pro-active overhearing and recording of private conversations, to be introduced by the ‘eavesdropping bill’, will, like telephone-tapping, be subject to prior authorization of the investigating judge. The Belgian guidelines require that long-term observation and observation with technical devices be carried out under direct control of the public prosecutor or investigating judge, whereas controlled delivery may only be employed in accordance with the public prosecutors of both the place where the operation starts and the place where intervention is supposed to occur. According to German law, the decision to start a long-term observation is to be taken by the head of the police service; the decisive power with regard to the use of technical devices during a criminal inquiry lies in the hands of the (investigating) judge or (in case of urgency) the public prosecutor and his aides (specially chosen police officers). Preventive and pro-active observation as provided by most provincial Police Acts, may be started by the head of the police service or by the public prosecutor and his aides depending on the province involved. Observation
with technical devices in a private residence (that are not to be employed for criminal inquiry purposes!) is permitted with the authorization of a judge or (in case of imminent danger) the police authorities alone.

The different systems and the Schengen solution

Even though the presented overview could only be a very limited one, it is clear that there are some major differences between the original five countries which signed the Schengen treaties, at least with regard to the existence of regulation on observation. The German system is very elaborate, a complex mixture of federal laws with a repressive character and provincial laws that are of preventive or pro-active nature. The other extreme is the situation in France and Luxembourg: apart from telephone-tapping, these two countries have practically no explicit regulation on police observation at all. The limitations in this field of policing can only be derived from what is forbidden by the Criminal Code. The Netherlands and Belgium both have quite detailed regulation of these policing methods, but only a few of these provisions are to be found in statutory law. Most of them are written down in guidelines and, in Belgium’s case, these are confidential.

Differences do not only exist with regard to the existence of statutory law: the actual police competences also differ from country to country, even though most observation methods may be used in all five countries. The main difference is in the conditions under which certain techniques may be employed. In the following, I will sketch some hypothetical though not unlikely cases that might occur in the future and in which these differences could have important practical consequences.

1. In Germany, a German police officer carries out an observation on two suspects with a video camera in public. Article 40 of the Schengen Convention does not stop him from using his camera after crossing the Dutch border, since according to Dutch law, observation with optical devices in public is allowed. However, part of the video camera is a microphone, with which the conversation between the two suspects is partly recorded. Dutch law only allows this if one of the participants consents (though the new ‘eavesdropping bill’ will change this situation). Therefore, at least the registration of the conversations has to be stopped when crossing the border, unless permission is obtained. Maybe the operation could continue when the observed persons have already passed the border, as long as the police officer is still in Germany. (In that case, it might even be allowed to
use long-distance microphones to record conversations that take place on the other side of the border ...)

2. A Belgian observing officer who follows a suspect into Luxembourg will have to stop using his camera at the moment this suspect enters a private area. However, a Luxembourg officer observing a suspect over the Belgian border can continue filming when the suspect goes into a house, as long as this is in accordance with the principles of proportionality and subsidiarity and no breach of domicile is committed.

3. In Germany, a conversation is being overheard with special equipment for pro-active reasons; under the present legislation, this cannot be continued when the conversation moves to the Netherlands, unless one of the participants has given his permission. Under future legislation, such an eavesdropping exercise will also be possible in the Netherlands without permission, under the restriction that the action be approved by an investigating judge. If this same operation is carried out by a Dutch police officer crossing the border to Germany, he will not need the permission of a German judge, since the German provincial police acts leave the decisive power in pro-active situations to the police. In that case, the Dutch police officer would have more independent powers in Germany than in his own country.

4. An observation with technical means that started in the Netherlands may be continued on Belgian territory, unless the devices that are used are forbidden in Belgium. It is unclear which devices come under this forbidden category.

5. In Germany, a group of suspected criminals is observed in public with the use of special acoustical equipment in accordance with the conditions of German law. If the observed group crosses the border to France, the police have to interrupt their observation, unless they stop using their equipment or ask permission to continue from all the members of the group.

6. May an observation of a private conversation in a car, that is overheard in accordance with the Dutch 'eavesdropping bill', continue when the car crosses the German or Belgian border?

7. A Luxembourg car is followed with the use of a radio beacon, which is a permitted, non-regulated method in Luxembourg. Arriving on German territory, the use of the beacon is subject to special conditions. Does that mean that the Luxembourg police officers are not allowed to use the beacon anymore, and how would it be possible to continue the observation without the use of the beacon?

8. A controlled delivery (with a police infiltrator) starts in Germany and continues in the direction of France. According to the French legislation, the infiltrator could continue his operation in France, but
according to the French text of the Schengen Convention, he is not allowed to cross the border: this would only be allowed in the case of delivery under surveillance which, according to French law, means that the transport is observed from the outside. Once the transport arrives in France, a French infiltrator could continue. A French infiltrator, however, would be competent to enter France with a controlled delivery coming from Germany, just as he would be competent to enter Germany with a controlled delivery coming from France.

These cases show that the Schengen provisions can indeed create a lot of new competences and possibilities for observing police officers. This is (as was to be expected) especially the case with observation methods that have not been equally regulated in neighbouring countries and where a lot is left to the discretion of the police. On the other hand, the examples also make clear that intergovernmental legislation cannot bring clarity into cross-border policing when the situation according to national law is as unclear as it is in France or Luxembourg.

**Conclusion**

In spite of the different conditions, all of the five countries which originally signed the Schengen Convention seem to allow and use observation as a method of criminal inquiry, at least to a certain extent. However, the only country in which practically every type of observation is based on statutory provisions is Germany. The interpretation that the Constitutional Court has given to the privacy and the freedom of the individual has led to the situation that Germany now has an extremely detailed and vast system of legislation on breaches of privacy by the state in general and on observation in particular. One could therefore think that the reason for the existence of this German legislation is a typically German one. But is this really true?

The creation of an explicit legislation on police observation powers would also bring more clarity into the undefined terminology used in the Schengen Convention and clarify the legal position and situation in which observing police officers might find themselves (in their own country as well as abroad). Furthermore, it would go some way to controlling the activities of the police in the highly sensitive field between the common interest of criminal investigation and the individual interest of privacy. It leads one to seriously wonder if the use of intensive observation techniques by the police without a statutory basis is in accordance with the right to privacy as
guaranteed by article 8 of the European Convention on Human Rights ... 38

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Legitimation of the private security sector in France

Frédéric Ocqueteau

Private security represents a relatively original challenge for public authorities in France compared with other European countries. But before showing how this is so, we first need to explain why it is a problematic object for the social sciences, and then to define it.

In fact, the private security sector has become a legitimate object of study for the social sciences in most developed countries; but it remains a largely problematic object, for it is often conceived on two palpably different and even antithetical registers, a dichotomy which we must attempt to transcend.

The first register is characterized by economic calculation. Private security is regarded as a market sector (governed by business law), which responds first and foremost to the law of supply and demand. The determining paradigm of this register tends to regard security as a commodity (Savas, 1982) rather than as a right, and inevitably entails a number of ideological consequences that must be assumed (e.g. a fairly negative vision: inequality of populations in the face of security, one security for the rich, another (in)security for the poor. Or a fairly positive vision: a moral mechanism, since the rich would pay for the additional security the State cannot afford to provide etc.).

The second is characterized by more normative reasoning. Because of the very nature of the services promoted (prevention, protection from menaces and the disturbances they occasion, which affect everyone), there seems to be a proliferation of centres of regulation (Hoogenboom and Morré, 1988), a multifaceted management of private orders themselves combining to redefine the overall post-industrial order. Not some informal, abstract order, but a new policing order for society. And that is why the object of our study has been largely taken on board by sociologists and criminologists familiar with the concept of ‘private policing’ rather than that of ‘private security’. Their paradigm regards security as a historically acquired right (to the point that it has become a duty of the Welfare State toward its citizens), rather than a commodity.

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These two paradigms leave scant room for reflection on the eventual action of public or State authorities in structuring the field of economic activities encompassed by the security business. This is all the more visible in France, where political scientists find no trace of a recognizable 'public policy' on this subject. An excellent example was provided by a recent French study on representations of security (Gatto and Thoenig, 1992). Not one of the sixty senior civil servants in charge of promoting public safety interviewed by the authors mentions private security as a problem, as an issue or as a challenge. This sector is not felt to be a threat, for example as competition with the State police (unlike municipal police forces). And yet, when the social sciences make it an object in itself, an independent sector of economic or of normative activity (e.g. a 'private police'), they often do so in a reductionist vein. In the end, the only way to understand how the private security sector functions is to analyze its varying and diversified, though barely detectable, sources of legitimation. I will therefore first examine the role played by public authorities as arbiters of certain interests peculiar to this field of activity (p. 111). After which I will make use of a few examples to discuss the notion, widespread in England and America, that the privatization of policing tasks presumably underlies the growth of the private-security sector, although it would perhaps be more appropriate to speak of the no-less important phenomena of 'publicization' (p. 114).

We believe that the private security sector can be defined by the following three propositions:

*It is a service sector providing equipment, personnel and original procedures for protection and risk management in the form of what French professionals call the chaîne de sécurité (security chain).*

This chain is composed of services ensuring the (perimetric and volumetric) protection of specific geographical sites, and of loss-prevention services. In the area of protection there are designers, manufacturers, distributors and installers of intruder and fire prevention material (e.g. electronic alarm systems). In the sphere of prevention, there are in-house departments and agencies specializing in three main areas: transportation of money (protection of assets), bodyguards (protection of individuals), and security guards. Among the latter, a distinction must be made between security guards and patrolling (human surveillance of a site); what the French call *télésurveillance* (remote-control surveillance of a site from a central office: a machine receives and analyzes messages sent over the phone line from a customer's premises); and so-termed *télésécurité* (a combination of remote surveillance and on-the-spot human response to an alarm).

*Taken together, the links of this security chain constitute a*
philosophy of action the guiding principle of which is risk prevention and protection against the losses and damages associated with these risks. These stem from three types of failure, from things that have been done or left undone: errors, accidents and malice. Private security is concerned essentially with prevention and protection, with the (theoretical) exception of repression. Prevention (by identification of risks, their assessment and quantification) aims to diminish the probability of their actually occurring. Protection aims at finding ways, not to stop the risk from occurring, but to diminish the frequency and above all the consequences of these risks. In the fight against acts of malice, private security emphasizes 'situational dissuasion' (Cusson, 1993); by protecting vulnerable or coveted targets (persons, assets, information), it can hope effectively to reduce the opportunities for offending (by dissuading potential offenders before they act or by making the task harder for the offender).

Finally, the private security sector is characterized in the main by a profit orientation (South, 1988) and by adherence to the laws of the market place (supply and demand). With the exception of in-house departments, private security operates on a contractual basis, selling or renting services to a (public or private, collective or individual) client. Expansion in this sector is semi-autonomous, and would be entirely autonomous if, in our societies, the demand for security had been left spontaneously to create the supply. It should be noted that academics have often seen private security as being determined by growing security demands, which in turn flow from two interdependent phenomena: on the one hand the rise in crime (in particular the unlawful appropriation of property) and, on the other, the crisis of State resources, which, unable to meet the growing demand for protection, forces the public to look to the private sector to satisfy its needs. This analysis seems too summary, however. Were we talking about a Liberal State, it would he acceptable, but this is not the case. On the contrary, in a Welfare State, the socializing mechanism of supply and demand in matters of security is solidly buttressed by the insurance sector. Insurance, too, has suffered the structural effects of the economic crisis, and most companies are obliged to think up ways of persuading their own (individual or corporate) clients to protect themselves, while at the same time developing means of verifying and normalizing industrial safety equipment. It can be said that the insurance sector broadly conditions and orients the implementation of 'situational prevention' (Ocqueteau, 1993). This is possible because the State delegates to the insurance companies the main pedagogical role of protecting the private property (property, assets and information) of both private individuals and firms.
The State, arbiter of varied professional interests

In this section we will be considering the managerial State in the role of third-party arbiter of conflicting interests, which makes laws inciting or prohibiting activities in the area of private security. Three examples will be given.

1. Some time ago a regulation came out concerning companies ensuring the transportation of money (decree 13/07/1979). When the public authorities dropped the traditional system of police escorts for the armoured cars transporting money between businesses and the banks (the system in existence when the flow of money was still limited), armoured car companies were obliged to reinforce their measures of security for both their vehicles and their employees. The regulation was demanding, since it went well beyond the normal requirements (armoured cars, minimum of three escorting guards, obligation for employees to carry a weapon ...). Deprived of police protection, the escorting guards were forced to become more professional, but they also became more vulnerable targets for street aggression. The 1980s saw a general concentration of these companies and a diversification of their activities, which allowed this sector to cope with the new rules of international competition. But, after a series of spectacular hold-ups in which the lives of both guards and passers-by were endangered, the philosophy of the public authorities began to change. New incentive attitudes emerged in the late 1980s and early 1990s. The question became how to resolve the problem of the so-called 'pedestrian phase of the transport of money' and the risks of guards having to shoot back in self-defence, thus further endangering lives. In the short run, public authorities sought to encourage clients (banks, supermarkets ...) to equip their premises with double sets of doors to avoid this highly vulnerable phase of the transportation of money. In the long run they felt it more important to promote technical innovations capable of definitively neutralizing the risks of aggression by removing the object of the gangsters' desires (e.g. self-destructing of paper money and demagnetization of credit cards in case of attack, etcetera). The Banque de France set the example by contracting with a company that had developed such a procedure.

The history of this regulation effectively illustrates how the initial logic of withdrawing police escort (which at first led the public authorities to require armoured car companies to protect themselves against armed aggression) became, in the long run, a new source of vulnerability for the physical safety of both the escorting guards and the public at large. Today, while public authorities are trying to...
change the rules of the game, armoured car companies are reticent, and prefer to see their clients invest in security devices, which cost the transport companies nothing. A veritable battle is being waged, with the public authorities acting as referee. The armoured car companies are trying to persuade them not to proceed too rapidly with these new procedures which could threaten their activities because of their incapacity to adjust to the new constraints in time. The clients (banks etcetera), on the other hand, favour the general implementation of these procedures, which they see as safer and less costly. In all likelihood, once the business leaders have adapted to the new procedures, a regulation will be made to generalize their use, thus making the new game rules official for clients and services in this niche.

2. Another, more far-reaching regulation attempts to respond to the concern of civil society and the State police with protecting civil liberties. The 1970s in France saw left-wing lobbying against deviant practices of companies of security and body guards, who acted as veritable private militia on behalf of a body of antiquated employers in social conflicts (Picant, 1980). The prohibitions set out in the law of 12/07/1983 must therefore be read as a direct response to the concern of civil society (Ocqueteau, 1990). The law states that security guards have the same powers as the man in the street and no more; it forbids private security guards to interfere in social conflicts; it forbids private security guards to work on the streets, and it forbids in-house departments to keep files on employees. In addition, the 26/09/1986 and 15/10/1986 decrees stipulating the conditions of enforcement (décrets d’application) define the status of security guards: uniforms, equipment, use of dogs, weapons ... The law is original in its intent to rid the sector of dubious elements (political extremists and ex-convicts, in particular) among both employers and employees. It obliges companies to register with the prefecture, which is responsible for ascertaining the agency’s compliance with the law. Since 1987, the prefecture has accepted or rejected candidates on the basis of their court record. A study assessing the effectiveness of these new decrees (Ocqueteau, 1992) provides the material for a preliminary quantification of the companies and their personnel; from the standpoint of quality, it shows that the monitoring has not been in vain: 16 percent of the agencies received a rap on the knuckles; in certain administrative districts, the personnel rejection rate was between 4 and 8 percent. Very few agency directors were barred, but the Renseignements Généraux were able to alert the administration to a small number of directors closely allied with extreme right-wing movements and suggested they be kept under close surveillance as
potential partners in subversive operations. But numerous perverse effects of the initial regulation have appeared with time, e.g. the fact that operating licences are granted for an unlimited period. It is difficult for the administration to know if, once licensed, security agencies continue to declare all employees, the turnover rate of whom is often high. Furthermore it is difficult for the administration to keep agencies from getting around the law: licensing straw men with clean court records; licensing employees as ‘independent’ contractors in order to save on benefit payments (in France: mandatory pension and health-insurance payments) etcetera. A reform law is now pending which should eliminate the bulk of these malpractices. But to my mind, until an administrative department specialized in on-site inspection of contractual agencies and in-house departments is created, the clean-up will remain fairly limited. Retrospectively, it becomes particularly apparent that the whole monitoring operation has given the private security sector much more credibility in the eyes of the public; for, if this multifarious sector with its serious internal divisions has been incapable of adopting a professional code of ethics like that of the British Security Industry Association (cf. South, 1988), it still knows how to market its official stamp of approval. It tends to adopt the line that the new regulation has virtually made private security agents auxiliary policemen. And above all, they seek State-approved legitimacy which is not always so easy to come by, over and above commercial legitimacy. The best proof of this is that some clients, disappointed with private security guards, are now beginning to set up in-house services, even if the cost is higher. As for the French authorities, natural defenders of civil rights, their position is ambiguous: they would like to clean up the private sector, but without infringing on the principle of free trade. Unfortunately, in matters of security, civil rights and free trade do not always go together.

3. A third example of public authorities as arbiters can be seen in the conflict that has been running between the State police and electronic surveillance agencies since 1988. The problem is the irritating and controversial question of so-called ‘inadvertent’ alarms and the alleged laxity of electronic surveillance companies in ‘confirming alarms’. In the course of the 1980s, it became apparent that, in the vast majority of cases (e.g. 90 percent in Paris), police were responding to a ‘false’ alarm. The height of irony was that the police had the impression that they had become an auxiliary of the private agencies, who were not really doing their job of detecting and managing alarms properly. A recent decree (26/11/1991) concerning electronic surveillance attempted to settle the dispute by reversing the
previous implicit game rules by imposing a tax on electronic surveillance companies using a telephone number assigned to them by the administration, without which they were unable to operate legally. By requiring these companies to confirm the alarm according to specifications set out in the text, it strongly penalizes errors or failures. The promulgation of this text put an end to police criticism while forcing electronic surveillance agencies to improve their performance for their subscribers. As police, gendarmes or firemen now know what they are responding to, they are assured of ‘good pinches’ (Shearing and Stenning, 1982) in their respective areas of competence. Electronic surveillance agencies win on two counts: they gain ideological credibility (they are virtually recognized as true public services auxiliaries, since their role as ‘first on the scene’ to ascertain the cause of the alarm is officially recognized); and their economic viability is enhanced, since, by penalizing weaker or less reliable electronic surveillance companies, the State precipitates the consequences of the economic struggle for life.

These three examples show how the French public authorities come to terms with existing practices by rechannelling them to suit either the interests of powerful corporate clients (ex. 1: banks, insurance companies), or those of the public (ex. 2), or those of the police (ex. 3). But beyond the immediate satisfaction of these different actors, there are ‘longer-term winners’. Indeed each specific regulation in an area of economic activity draws a dividing line between the powerful, who are capable of adapting (because they are able to look ahead), and the others, less well off, who, threatened with more or less imminent disappearance, must change their practices or find ways of getting around the difficulties.

In matters of private security, French authorities take a more or less direct hand, not only in the economic moralization of the sector, but in its ultimate ideological legitimation as well, even if it is in the name of an arbitration supposed to protect the general interest.

‘Privatization’ of policing or ‘publicization’ of private regulations?

We will now go further and consider the State, no longer as a public power overseeing particular interests, but as an aggregate collective of public services and establishments. From this standpoint, the State can be analyzed as an ‘actor’ who enters directly into the fray of economic competition and takes part in certain processes of privatization of policing missions or tasks. A priori all western democracies faced with the challenge of buying and selling security
are engaged in such a process (Conseil de l'Europe, 1990). It should be noted that for the most part this rhetoric was prominent in the 1980s in those countries caught up in the ultra-liberal enthusiasm of the Reagan-Thatcher era, and was much less in evidence in France or West Germany, both more circumspect on the subject.

We will be giving examples that tend to show the existence in France of indications of 'privatization' of policing; the question I ask myself is less whether or not the phenomenon constitutes a real problem as far as ideology is concerned than whether it might not be better to look into phenomena of 'publicization' through the legalization of procedures or of the status of the agents of social regulation (p. 117).

Formulas for 'privatization'

There are two typical approaches to 'privatization': one in which the State acts as a party to the contract, and the other which entails the 'privatization' of a public service.

The State as contracting party

Public companies or establishments can act as partners of private security firms, as shown in figure 1. The contracting private security companies respond through the usual procedure of public invitation to tender (Code governing the public market) for the protection or surveillance of government-owned sites. Public establishments adopt this solution for two reasons: either because, at a given moment, they consider themselves to have become 'insecure' with respect to the past, when an informal in-house security system was sufficient; or because they have decided that the guards used up to that point are insufficient, or too reluctant to perform uninteresting tasks, or too expensive in comparison with the private sector. But these lines of reasoning also hold for a large number of local collectivities who have also learned to turn to private security agencies rather than setting up 'municipal police forces'. Public managers are learning to weigh the costs and benefits of using private agents against 'renting' a public police officer (the former always wins). If all eyes were on costs alone during the 1980s (which proves no one was particularly interested in results), it seems that this parameter is beginning to be

2 A good example of this problem is illustrated in France by a reflection on the intensive use of private guards in the Paris public hospitals, which manage their own budgets and legal affairs (Le Doussal and Laures-Colonna, 1993).

3 For a quantified and qualitative comparison of the phenomenon, see the Chaikens' ground breaking study (1987).
less of a determining factor, for now a security guard is expected above all to have the 'company spirit'. The more expensive in-house security guard has become more attractive because he feels more responsible, and results come first. I believe that the true challenge of the 1990s and 2000s no longer lies in comparing the costs of the private and the public agent, but in comparing the qualities of the in-house agent vs those of the contractual agent. Which means that, at the end of the day, physical security services are bound to decline. Nevertheless, if people have long put up with unsatisfactory security guard services, it is as much the fault of the public companies and establishments who contracted with the cheapest agencies and so perpetuated mediocre service.

The case of a 'public service privatization'  
By a simple legal operation, a public service came into direct competition with other firms transporting money. It is no accident that this occurred in France during the first period of what was termed

4 And even less in the ratio been the number of public and private agents which is still much lower in France than, for example, in the United Kingdom: 5/2 as compared with 1/1.
5 The largest suppliers of labour in Europe according to Dedecker (1991).
'the cohabitation' between a right-wing government and a left-wing president (1986-1988). In 17/09/1986, a decree 'privatized' the famous postal security service (Service de Sécurité de la Poste), transforming it into a commercial enterprise dubbed Sécuripost. A subsidiary of Somepost, whose entire capital remained in State hands, it was ready to begin transporting money for a ready-made market provided at birth. Not only was it granted the exclusive right to collect money from all post offices in the country, it was also given the chance to diversify its activities and seek contracts for the electronic surveillance of public and private sites. This operation created a de facto inequality of treatment to the detriment of competitors, who saw it as unfair competition. Their argument was flawed, however, since the post offices had never been one of their clients and above all, they had forgotten to complain ten years earlier about another 'captive' market that the bank Crédit Agricole had been obliged to create from scratch. In effect, finding no armoured car company equal to the task of collecting all the money and assets from all the branch banks in all the rural towns of France, the bank created the SECSO, financing the entire capital. As we see, the ways of privatization of security in mixed-economy countries remain much more tortuous than in ultra-liberal nations.

'Publicization' of private regulations?

If French public authorities are often accused of meddling in the mechanisms by which security agencies compete for contracts, this is something of a ritual complaint. Indeed, many other instances regularly go unmentioned, even though, inversely, they illustrate forms of 'publicization' of the social control performed by private security. Two procedures taken from distinctly different examples will show a convergence, not in privatization practices, but in 'publicization'.

Monopoly markets

There are some major security firms that enjoy a guaranteed income, notably those with a monopoly on the surveillance of Defence Ministry sites. In order to obtain a contract, they must submit to a number of acts of allegiance to the State: among these are a much closer screening of their economic and financial viability, the extent of their dependence on foreign capital, and the independence and 'morality' of their agents, as there is the potential danger of theft of State secrets. The clauses of the contract are draconian, and very little room exists for negotiation (cf. Manning, 1987). But, if only a few companies are entitled to these privileged contracts, this is largely
due to the fact that these are headed or managed almost exclusively by senior civil servants (on loan from the Defence Ministry or in retirement). Even better, some companies, like SECFRA, were 'created' by the Defence Ministry itself. To ensure the inspection and surveillance of French nuclear sites, a colonel of the National Gendarmerie and a number of career army officers were appointed to head this agency. On the whole there is no doubt that 'old-boy networks' (O'Toole, 1978) of ex-civil servants recycled into security companies or in-house services are a highly significant factor, not so much of the economic efficacy of these companies as of their 'official' legitimacy. No one will hear them voicing their indignation at unfair competition because of inequality of opportunity stemming from a lack of imported 'public order' culture in their management ranks! ... And indeed, the presence of military or police officers, or professional firemen on the staff will always be, for any security agency, a warranty of seriousness and a considerable ideological asset in obtaining certain contracts or market shares, for clients automatically assume that these agencies are more reliable and experienced than the others.

**Legalization of de facto situations**

Certain security agents whose company has privileged contracts with national companies grant themselves what the French call *prérogatives exorbitantes de droit commun*, that is rights and privileges over and above those enjoyed by the ordinary citizen. Passenger and baggage searches in some French airports should theoretically have remained the exclusive responsibility of the Air and Border Police (*Police de l'air et des frontières*). As the use of private inspectors became widespread as a consequence of a division of labour between private and public security agents, lawmakers intervened (article 15, law of 10/07/1989) to put an end to this situation, not by forbidding the practice, but, on the contrary, by legalizing it. This gave private agents the option of being certified, even if they still had to work under a State police agent. Of course as far as airport security goes, the number of private agents concerned by the text is low, but the symbolic gains are considerable for the two French societies that, to date, enjoy such favours, since their agents now have greater symbolic and real powers than the competitors.

The same process can be observed in the case of massive litigation which concerns the general public more directly: shoplifting in supermarkets. The phenomenon had become so widespread and commonplace that the courts were being asphyxiated by the repetitive nature of the cases before them. For this reason, in 1985 the French Justice Minister instituted a (non-mandatory) 'simplified complaint
procedure’ allowing public prosecutors to dismiss these cases (under a certain number of precise conditions ‘negotiated’ between the shoplifter and the store detective), and to prosecute shoplifters if they re-offended. This procedure seems indeed to have brought down the number of cases. But above all it triggered a disturbing perverse effect: studies have shown that 90 percent of the time supermarket directors do not report the offence, preferring the informal ‘transaction’ with the shoplifter; it is not clear, however, how much ‘constraint’ the negotiations entailed. The problem, often denounced in the media and by racket victims⁶, has gradually shifted ground.

At present the supermarket lobby is campaigning for collectivities to legalize and legitimize the practice of ‘private justice’. The solution to this increasingly debated problem follows the same logic as above: it means bringing the de facto powers of security agents into line with the law by having agents certified, i.e. officially recognizing their officious status as auxiliaries of the justice system.

Conclusion

To sum up, I maintain that the commerce of private security and the practices of this sector cannot be explained by the economics of supply and demand, for it is hard to conceive of this commerce outside the framework of state regulation as a whole, whether the State acts as arbiter or partner. The emergence and gradual institutionalization of this commerce in fact both supplements and complements the other resources the State provides for its citizens. I do not believe that the selling of security in itself threatens the legitimacy of the State as defined by Weber, or at least not in France, nor in the other EC countries. I would be less categorical about the situation on the other side of the Atlantic, however, and particularly in the USA. In all likelihood, the different forms of policing are due to cultural differences which themselves are closely linked to the logic underlying the development of the individual police systems. It is not rare, for example, in the US to hear the claim that the private security sector has grown so large and powerful that it could take over the activities of crime prevention and dissuasion from the public police. It should be noted that the arguments advanced are used both to deplore and to applaud the phenomenon (e.g. pro: Fixler and Poole, 1988).

⁶ On the one hand the law gives store detectives and security guards no powers of coercion over ‘shoplifters’; on the other, the police are in most cases not interested in such peccadillos.
Personally I am not an enthusiastic supporter of extending indefinitely the commercial resources of the private sector, either in France or in Europe, for this only helps further to divide or fragment our societies. There are alternatives to situational protection which must and can be put forward, community-based mechanisms, for example, whose philosophy of action would not be dictated by economic reasons. That is why protection devices must remain secondary methods of action in prevention policies that include them in their strategy, whereas present trends show that we increasingly let ourselves be dominated by them. If we are not careful, there is a serious risk that the 'values' that flow from a purely instrumental system of security will in the end unseat, not to say actually kill off, the values of liberty.

Of course one could disagree that there is no true liberty without security, but I am firmly convinced of the fact. What I am not convinced of, on the other hand, is the purported efficacy of security marketed by industrialists and specialized services by means of what remain fundamentally ambiguous messages. Indeed, while the 'progress' of protection systems is driven by the need to foil (among others) criminal ingenuity, the same industry is obliged, if it wants to sell its security systems or services, to make their clients, future victims, believe that their premises, assets etcetera, will become vulnerable! If we carry this reasoning to its logical conclusion, we are dealing with either an industry bent on suicide or one that is working actively and objectively to bring about a 'bunker' society.

In reality, the private sector's strengths are inextricably tied in with the policies and strategies of the insurance companies, upon which this sector is structurally dependant. All evidence suggests, it is the insurance companies that are currently in the best position to dispense instruction in the protection of property against acts of malice, and the State maintains a benevolent neutrality. Far from curtailing their activities to compensating damages, insurance companies have come not only to monitor the reliability of the security equipment on the market, but are beginning gradually to orient their clients towards the industrialists who will undertake the protection of their premises and assets. Insurance companies are betting that a consciousness-raising campaign aimed at insured 'victims' will pay better that speculating on an unpredictable state policy of dissuasion based on the repression of offenders, of which there is a continually replenished pool.

Any future debate would be short-lived if it were restricted to the question of conflict, competition or cooperation between public and private police forces. The alternative facing us is much more fundamental, it is intrinsic to the crisis of the Welfare State, which must come up with solutions if it is to survive (Ewald, 1986):

- either the grip of the private security sector will grow stronger as
insurance companies incite their solvent clients to equip themselves with protection. Does this not raise the risk of ever greater inequality between the insurable and the uninsurable, between the overprotected and the underprotected, if the authorities do not react to this danger?

—or we finally come out of the economic recession or even enter a new phase of expansion which might alleviate the present fixation on security. Might not the consequence then be a lessening of the private security sector’s hold on the market so that the beneficial effects of the Welfare State may continue free of threat?

My natural pessimism inclines me to the first likelihood, although I am not yet resigned.

Translated by Nora Scott

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The changing face of crime in Hungary

The only way to assuage growing public anxiety over the increase in crime – something which only recently acquired a political dimension in Hungary – is to present to opinion-makers the complex social aspects and to outline the proven solutions of strategic importance, which could help the public to learn to live with a growing crime rate. Here I intend to concentrate on the first of these tasks.

Crime in the early 1990s

Since the 1970s a steady growth in the crime rate has been recorded in Hungary. In 1972 the number of criminal offences per 10,000 head of population was 121.1; by 1991 this figure had risen to 378.4. Thus the number of reported criminal offences has more than trebled over the past twenty years. Between 1987 and 1991 the increase was a spectacular 233.7 percent. In contrast, the number of cases where the perpetrators were identified only increased by 132.5 percent over the same period. Criminals being apprehended only after more prolonged spells of criminal activity, and the rise in the number of unsolved crimes provided clear evidence that police investigation was proving less successful.

The break-down of successfully investigated cases shows a considerable growth in serious crimes: in 1987, 65.5 percent of all cases were classified as misdemeanours and 34.5 percent as felonies; by 1991 the percentages were 47.3 and 52.7 respectively.

Thus, in a relatively short period of time the public was confronted with crime as a problem which appeared to be both threatening and unmanageable. All this took place after a period when, except for those professionally concerned, frank discussion of the social aspects of crime was rare. In the previous era, research results did not reach the arena of politics or public opinion. Just as in many other areas, here too citizens were treated as minors. This is one of the explanations for present anxieties and for the demand for greater retribution and more severe sentences.

The changes in the composition of criminal offences have fuelled similar sentiments. The chance of one becoming a victim of crime has increased considerably faster than the actual growth in the crime rate would suggest. Naturally, at a time of growing criminal activity, the number of victims can also be expected to rise. In 1988 the number of victims was only 45,331;
in 1991 this number had almost trebled, reaching a total of 129,608. The fact that the offender was, in a growing proportion of cases, a stranger to the victim also added to the feeling of helplessness.

The majority of the public is still unprepared for such a situation. In spite of their anxiety, they fail to take even the most elementary precautions, to protect their property. This conclusion was reached in 45 percent of the reported cases. Despite this anxiety, people understandably display a large measure of indifference towards crimes threatening others. However, it would be a mistake to blame the public for the growth in crime by suggesting that they could have prevented much of it. Instead, we should accept the fact that potential victims will go on responding in this manner until they become crime-conscious and are ready to make the necessary financial sacrifices to protect their property. However, this process could be hastened by providing better information.

A realistic picture involves a knowledge of the actual risk. In the early 1990s, more than eighty percent of reported cases were offences against property, 86.6 percent of these being theft, of which 35.5 percent involved burglary. The losses incurred were nearly to twenty-one billion forints (273 million US $). Offences against property became the dominant form of crime in the second half of the 1980s. (In 1985 61.4 percent of criminal offences were against property.)

Within twenty years – between 1972 and 1991 – the number of offences against property more than quintupled. Most of these offences are now against private property. Consequently the anxiety caused by crime is especially justified where property is concerned.

Victims are particularly sensitive because they realize that the chance of catching the offender is small. To get compensation, they have to go through a complicated, and often humiliating, procedure with insurance companies. There is no state-run compensation scheme in Hungary, not even where the stolen property includes items essential to the victim’s subsistence. As the position of the victims is at present poorly regulated by Hungarian law they are insufficiently protected and they feel at the mercy of all the authorities and organizations handling their case (Fehér, 1991; Kratochwill, 1991).

In the case of serious crime, the trend is not unambiguous. In the past five years the number of murder cases has increased by only 10.4 percent. (In 1987 there were 403 and 445 in 1991. In comparison: 2,623 were killed in road accidents in 1991.) The ratio of violent crimes within overall crime figures has been nearly halved in the past five years. All this means, however, is that the growth in violent crime has not kept pace with the rise in other criminal offences, most notably those against property. In 1991 criminal acts involving violence made up 5.2 percent of reported criminal cases.

The anxiety associated with violent crime derives from the growing feeling of being threatened. In the late 1960s violent crime was still associated with rural areas; by the early 1990s it had become a feature of urban life. Conventionally, violent crimes were committed in passion and were largely a result of conflicts in long-standing
relationships between victims and perpetrators. The victims usually belonged to the immediate environment of the offenders. This characteristic changed with the growth in urban violence. Anybody can be the victim of urban violence; the attacks are mostly directed against either a perfect stranger or a casual acquaintance, with the dominant motive being financial gain. Particularly brutal attacks are on the increase. More and more acts of violence are carried out by organized gangs, who are sometimes armed.

In the past five years traffic offences deemed criminal declined from 10.3 to 6.8 percent. Again, this does not mean that the observance of traffic regulations has improved, or that the actual number of traffic violations has declined; again it simply means that the growth in the number of violations has not kept pace with that in crime against property (154.2 against 306.6 percent).

The great majority of Hungarian offenders – 79 percent – are men between the ages of 18 and 39. This group accounts for only 14 percent of the Hungarian population (Demográfiai évkönyv, 1991).

Contrary to popular belief, most crimes are committed by Hungarian citizens. In 1991 only 4.1 percent of all the identified offenders were foreigners (5,092 persons). When we compare this with the fact that around 35 million foreigners enter Hungary each year, it is clearly evident that their contribution to crime is surprisingly small.¹

The regional distribution of criminal offences largely corresponds with the distribution of population. Budapest itself is the only exception; it has 19.4 percent of the country’s population and has 33.9 percent of all the criminal acts committed.

Recently I was surprised to see that a well-known American political scientist maintained that during the 1960s, the social scientists of the United States had been warned of a crisis of values by the rapid rise in, and the thorough restructuring of, crime. Between 1960 and 1970 the chance of becoming a victim of serious or violent crime trebled. In 1967, the victim and the offender had known each other prior to the offence in fifty percent of cases; by 1975 in two thirds of the cases the attacks were directed against strangers (Harrington, 1984). The present growth in the crime rate in the United States appears unstoppable, and the structure of crime has basically preserved the profile of the mid-1970s.

Constraints due to technological development are singled out by Pál Déri as being the primary cause of the current crime situation. The restructuring that takes place in manufacturing forces each generation to go through re-training several times in the course of their active life, tests their ability to adapt to the limit, and eventually leads to their becoming déclassé and to their drifting into crime (Déri, 1991, p. 9).

Without disputing Déri’s views, I have chosen a more comprehensive sociological diagnosis drawn up by Rudolf Andorka, as my point of

¹ In 1990 foreign citizens entered Hungary on 37,632,174 occasions (Baló and Lipovecz, 1992).
departure. According to Andorka, signs of anomie are present in wide sections of Hungarian society, and crime is but one of its many possible forms of expression. Anomie is ascribed by some authors to the confusion of values during adaptation to new circumstances; in the view of others it expresses the absence of any values. Durkheim (1917 and 1960) spoke of anomie in the case of a society in which deviant behaviour either suddenly shot up or completely disappeared. In Hungary, both phenomena are currently present, even if only one of the manifestations of deviant behaviour, crime, is considered here. The rapid rise in reported criminal cases has already been described. Concurrent with that process, however, certain types of crime have almost completely disappeared from the statistics. Two such criminal offences are the endangerment of juveniles and the failure to pay maintenance. These two offences together formed 4.6 percent of all reported crimes in 1987, but in 1991 accounted for a mere 1.3 percent. It is unlikely that the occurrence of these two offences actually declined; nor is it likely that they failed to keep up with the increase of crime in general. A more probable explanation, one mentioned by Déri, is that a certain proportion of crime and certain types of crime occur in relative obscurity, while the attention of the authorities is taken up by more serious forms of crime. The deteriorating success rate of police investigations adversely affected the public’s willingness to report crime (Déri, 1990, p. 8). In my view, the general indifference arising from public anomie also contributes to the latter factor.

I shall be able to deal with the question whether there actually is anomie in Hungary in the early 1990s, and whether the rapid rise and the structural changes of crime can be attributed to anomie, only after discussing the social consequences of the sudden changes, while, at the same time, stressing the factors which play the greatest part in the growth in crime.

Social mobility
According to the latest figures social mobility in Hungary has increased. A great many people have lost their jobs and must seek new employment. Many in government employment are moving to the private sector, either as entrepreneurs or as employees of a new kind. In the past five years, the percentage of people working in the private sector has increased from 14 to 28 percent. In 1991 30 percent of the active work-force worked in the private sector. According to a 1988 survey, 25 percent answered 'yes' to the question whether they would like to become entrepreneurs; by 1990 the corresponding figure had grown to 44 percent (Kolosi and Róbert, 1992). It is common knowledge that, as the result of these processes, about ten percent of the workforce has become temporarily or permanently unemployed in recent years. The expected anxieties have followed. According to the aforementioned survey, twenty percent of those interviewed feared unemployment in 1989; in 1991 fifty percent had such fears (Kolosi and Róbert, 1992). According to a Szonda-Ipsos survey by pollsters, eighty percent of the population felt that their financial situation had deteriorated,
with only five percent reporting an improvement. Yet, in fact, the financial situation for 40 percent of the active work-force had deteriorated, for 14 percent it had remained the same and for 46 percent it had improved. (For the retired, the corresponding figures were 71, 11 and 18 percent, respectively.) As to the financial situation of families, the number of families living below subsistence level rose considerably within a short period: it was 9 percent in 1988, and 15 percent in 1990 (Kolosi and Róbert, 1992). We have reason to believe that the situation of families has further deteriorated in recent years, particularly for those living close to subsistence level.

The available information suggests that the re-structuring of society continues at a considerable pace. In conjunction with this, the morale of the majority is declining in view of the threats to their financial or social security. They have lost prospects once thought to be stable; with attitudes of the former era still intact, they expect the government to solve their personal problems, including unemployment. They have no confidence in the new mechanisms of a market economy, nor in the establishment, the effective help it offers and the protective functions of its institutions (Kolosi and Róbert, 1992). Nevertheless, the mechanisms of a market economy have evidently started to work. Entrepreneurs of varying degrees of success have emerged, promptly creating their own negative image in the restructuring of crime, with criminal offences against property becoming the dominant factor. Some of the offences against property can be seen as a type of rational behaviour in which the risks are weighed against the chances of getting rich quickly. Today this is realized in a moral environment in Hungary, in which pecunia non olet, especially when one has a great deal of it.

Poverty
Other offences against property could be described as crimes committed simply to make ends meet, with people whose subsistence is threatened acquiring the bare necessities. Currently, this form of criminal behaviour mobilizes those who lack the resources, financial or intellectual, necessary to adapt to the new situation. When deprivation is cumulative, then – according to research presently available – this becomes the motive for violent crime. In Hungary, as elsewhere, this is apparent in the growth of aggressive behaviour aimed at satisfying needs, as against the traditional concept of violent crime as a means of resolving conflicts.

To confirm the above hypothesis, I examined whether the regional distribution of offenders was linked to the regional distribution of people living below subsistence level. The evidence suggests that, in the most prosperous regions, the percentage of offenders does not exceed that of the population. The same conclusion does not apply to the less prosperous section of the population. The correlation is especially clear when we examine the regional distribution of juvenile delinquents. Poverty-stricken areas are not only the most active in producing criminals, but their populations are obliged to bear disproportionately more
of the extra burdens of crime. Interestingly enough, this applies to violent crime more than it does to offences against property.

All the Hungarian research into deviant behaviour has confirmed that in this respect the frequency of deviant behaviour shows definite links with the social and cultural status (including such factors as income, education, housing, and lifestyle). 'This inverse relation is especially evident at the bottom of the social scale, among marginalized groups which are mostly made up of uneducated and unskilled workers and display a strong concentration and accumulation of deviant behaviour' (Miltényi, 1990; also Andorka, 1991). In the past five to ten years the proliferative processes of deviant behaviour have accelerated among people living on the fringe of society, as the external conditions for proliferation on an increased scale have been firmly established. Deviant behaviour interlinked with a marginalized social situation favours the spread of the most traditional types of crime against property and those involving violence (Gönczől, 1991). In this particular case we see the emergence of crime rooted in poor living conditions.

Segregation seemed to be an increasing problem in the 1980s. At the bottom of the social scale, upward mobility was diminishing. One survey studying mobility in schools found that the proliferation of disadvantages (such as low educational standard) was always greater than the proliferation of advantages (Róbert, 1991). Beginning in the mid-1970s, segregation accompanied by social decline has produced a new type of poverty. The percentage of people over the age of 15 and living below subsistence level, generally estimated to be somewhere around ten percent, changed little, though the restructuring of this group was notable. The percentage of families with active breadwinners increased among the poor, and urban poverty grew considerably. Between 1977 and 1987 the percentage of those living below subsistence level doubled in families with active breadwinners (see table 1). Both these processes strengthen tendencies generating crime. It is common knowledge that the propensity of the inactive (mostly old age pensioners) to commit crime is considerably lower than that of active and younger people. The criminal statistics of the urban population cause considerably more alarm than those of the rural population. Therefore, if segregation affects the active urban population, then this could, indeed, strengthen the growth in the crime rate.

As far as the future is concerned, there is nothing in the surveys on the processes of impoverishment to inspire confidence. There has been a dramatic growth in the percentage of children living below poverty level. Although children make up the same proportion of the total population as in the early 1970s, the proportion of children among the poor has increased from approximately one third to 41 percent. The endangered position of families with children is underlined by the fact that the number of women on Mother's Care Allowance has trebled amongst the poor (Szalai, 1991; Salamin, 1991). By comparison, the percentage of children under subsistence level in Great Britain
Table 1: Composition of those living under subsistence level, broken down by type of settlement and type of household; percentages

<table>
<thead>
<tr>
<th>Composition of those living under subsistence level</th>
<th>1977</th>
<th>1987</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban population living in households with active earners</td>
<td>44.4</td>
<td>59.7</td>
</tr>
<tr>
<td>Rural population living in households with active earners</td>
<td>33.9</td>
<td>26.5</td>
</tr>
<tr>
<td>Urban population living in households without active earners</td>
<td>14.5</td>
<td>9.6</td>
</tr>
<tr>
<td>Rural population living in households without active earners</td>
<td>27.2</td>
<td>4.2</td>
</tr>
<tr>
<td>100</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

Source: Szalai, 1991

was 12 percent in 1979, increasing to 26 percent in 1987 (Nacro, 1992a). Irwin Waller (1991) argues that child poverty is of paramount importance among the social factors fostering crime. According to an international survey Waller conducted, there is a direct link between the crime level and the ratio of children below subsistence level. It is hardly a coincidence that in the United Stated, the country with the worst crime rate of those covered by the survey, the percentage of children living below subsistence level is the highest, while it is the lowest in Norway, a country with acceptable crime figures.

**Schooling**
As to the social factors promoting crime, childhood poverty is usually accompanied by inadequate schooling. Dropping out of elementary school is in itself a factor that tends to marginalize people, and, thus can be linked to criminal behaviour. This is especially true in the present period, when the extension of the market economy is taking place in countries such as Hungary. Of juveniles convicted by the courts in 1990, 6.2 percent were illiterate (against 1.3 percent of the total population above 16), and a further 29 percent had failed to complete elementary school. Thus the chances of social integration of more that one third of the convicted juvenile delinquents is made more difficult, not simply by the fact of acquiring a criminal record, but by the inability to participate in any further training schemes. They cannot even obtain a driving licence.²

**Homelessness**
The loosening of social bonds during the political transition period resulted in the emergence of the problem of homelessness. According to some estimates, there were approximately 200,000 people (two percent of the total population) in Hungary in 1990, who lived in imminent danger of becoming homeless. At that time, however, homelessness did not attract as much attention as it does now. Homelessness is a distinctive form of segregation which has several causes. These are linked to the intensification of market mechanisms, or their legitimation (inasmuch as they contribute to the rise in unemployment and to the closure of

² Similar figures are given by Vavro (1992).
workers' hostels). They also reinforce the process in the sense that they help to establish clear and well-defined conditions on the housing market, thus directly motivating evictions, forcing up rents, and limiting the scope of social policies in housing. A partial amnesty also contributed to the growth in homelessness. The decriminalization of vagrancy added to the numbers released from prisons (Györy, 1991). The conditions under which social outcasts live, as manifested in homelessness, easily lead to the formation and consolidation of deviant behaviour. Those who are permanently homeless have nothing to lose: in their case crime pays, whether or not they get caught.

Unemployment

Unemployment is another relatively recent phenomenon in Hungary. This, too, became an openly discussed social problem after the introduction of the market economy. The full employment policies of the old centralized economy led to a form of unemployment within the factory gates. Keeping wages low, the former regime made it the legal duty of every citizen to work, making vagrancy (with the emphasis on visible legal means of support rather than domicile) a criminal offence. When this was abolished the demand for efficient production and the restructuring of the economy resulted in a registered level of unemployment of about ten percent by the end of June 1992. Sociologists accept that unemployment ‘in general’ does not automatically lead to deviant behaviour although it undoubtedly weakens the social bonds of the unemployed and reduces their chances of integration. Unemployment threatens a massive social segregation only when it starts or strengthens a lasting process of marginalization, when it affects school-leavers on a large scale, or when a considerable proportion of the unemployed are uneducated and unskilled (Gönczöl, 1988; also Council of Europe, 1985; Korinek, 1989).

The prospects of school-leavers were outlined when their participation in training and education programmes was discussed, and when I made reference to the incomplete schooling of juvenile delinquents. On both counts the conclusion was drawn that at the present time institutional training programmes do not form a genuine alternative for the young in combating unemployment in Hungary. Prospects are especially alarming since the generation involved is extremely large as a result of a demographic explosion. Many of these are consequently in danger of failing at school, dropping out of school, or other social disadvantages.

The first wave of unemployment affected that part of the workforce, which was of generally low productivity; they had been in employment because of a labour shortage and because of the wage policies in force over the previous decades. Social groups of extremely diverse characteristics and behavioural patterns were part of this residual unemployment; they included Gypsies and those partially disabled due to accidents, illnesses, or any other cause, alcoholics and drug addicts, social deviants and people recently released from prison. The common feature of this group as a whole was that their
ability and willingness to work, their performance and habits were all below average; indeed, their grave social problems became exposed on the labour market. Their unemployment could not be dealt with through the usual employment policies and today these people form the 'hard core' of the permanently unemployed (Tímár, 1992). It is also from these people that a potential reserve of criminals may materialize if unemployment becomes permanent (Nacro, 1992b).

Actually, the fact that accused or convicted is unemployed can heavily influence the type of penal sanction and the length of the punishment imposed, as well as adversely affecting their chances of relapsing into crime. In view of public interest, the Courts are reluctant to give other than custodial sentences to unemployed. Similarly, when eligible for parole, these prisoners are unlikely to be released before completing their full sentence, as an unemployed status reduces their chances for social integration. Even if they are released on parole, the lack of after-care and institutional help in social integration, along with the damaging influence of the prison experience will leave them with no real option other than to relapse into crime (see Nacro, 1992b, including an international comparison). According to 1991 figures, 54.6 percent of identified offenders were either unemployed or dependent on their family or, being unskilled, had only temporary employment. This means that, even now, less than half of the identified offenders are in proper employment at the time of committing the criminal offence they are charged with.

Due to the social processes described above, considered individually and collectively, there is an increase in the number of people with fewer ties to the newly institutionalized order and the emerging norms of society. Since they have hardly anything to lose when society calls them to account, those who are loosely attached will more easily break away from, or more readily confront, society.

The social processes described do, perhaps, make it clearer that Hungarian society in the early 1990s does, indeed, show signs of anomie and this is also underlined by the structural changes in crime. In this changing system of values the crucial question is how well society itself, in its present condition can function as a norm-creating community, one which maintains human values.

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Friendly games, standard methods

A summary of the evaluation of the 1992 European Football Championships
In 1992 between June 10 and 26, the European Football Championships were held in Sweden. Sweden, Holland, England, Germany, France, CIS, Scotland and former Yugoslavia qualified for the finals, but due to the war the Yugoslavian team was excluded and therefore replaced by Denmark.

The matches in the tournament were played at four stadiums: in Solna outside Stockholm, Norrköping, Malmö and Gothenburg. The police authority and the organizers estimated the number of foreign visitors to Sweden during the tournament would be approximately 100,000. From each of the countries particularly interested in football, i.e. England, Holland and Germany approximately 10,000 supporters were expected and five percent of these were assumed to be so-called 'hooligans' or 'saboteurs'.

Public opinion in Sweden was mixed regarding the arrangement of the European Championships. Too often in the past, international as well as domestic football tournaments had been burdened with different kinds of disturbances and therefore the public feared that these types of events might be repeated. The ability of the police authority to handle the Championships was severely doubted, especially as they seemed unable to control regular Swedish football matches. Criticism was also directed towards the police concerning the preparations before the tournament. The efforts were described as too repressive and provocative.

The Swedish Police Research Unit was given the assignment, to evaluate police efforts before and during the European Football Championships, by the Swedish National Police Board during the winter of 1992.

The main purpose of the study was to describe and evaluate the planning of police work before the Championships, especially the general purpose of the aims and strategies. Further, based on presuppositions and previous knowledge of similar experiences, the study was to include the preparations and the extent to which the police managed to keep the established policy of 'friendly games and standard methods'.

Data were collected mainly by direct systematic observation of all the football matches by four to six official observers. The matches were categorized in low, middle, and high-risk categories, i.e. the risk that disturbances and/or violence would arise in connection with the matches and probably between supporters of different teams.

The planning

The aim 'friendly games and standard methods' was formulated by the work team comprising members of the Swedish National Police Board. The work team was responsible for planning and coordinating police activities before and during the Championships.

The police forces were instructed to work 'preventatively', keep a 'low profile', present a 'high level of tolerance' and 'not to intervene more then necessary'. The police authorities responsible for the different football
stadiums formulated individual policies, based on the general objective to work preventatively, and establish public order and safety. The pre-championship planning was based on previously acquired knowledge of football violence that had occurred in other countries arranging similar tournaments. The work was carried out by selected work groups consisting of representatives from each city and the Swedish National Police Board. In all, about 5,000 police officers from all over Sweden were seconded to work during the tournament.

The matches
The matches during the 1992 European Championships had at least one thing in common, namely that they generated only a few incidents of violence. In the low-risk categories there were no disturbances or violence at all, with the exception of a few skirmishes which were easily dealt with. There was not one single event that made the police officers deviate from the established goal and the high level of tolerance was maintained.

In a sense the police officers adopted an extremely reactive wait-and-see policy, a policy that had negative consequences in the long-term perspective. A few exceptions to this were seen in the cities of Stockholm and Norrköping. In Stockholm the police officers walked around talking to, and gathering information from, the visitors inside and outside the so-called 'beer tents' which were put up in a field called Gardet. If conditions changed the police force, well hidden behind the hills, was prepared to intervene.

During the matches categorized as the middle-risk group, violence occurred on two occasions, the night before and the evening of the match between England and France. The police force in the city of Malmö stated that the celebrations in connection with the matches in Malmö turned into 'one outburst riot' (quotation from the Malmö police information section). The stated reason was that approximately sixty English football fans invaded the big square and attacked the police, the public, cars and shop-windows. Gradually the Malmö police succeeded in stopping the riot but they were criticized afterwards for not being able to prevent it at an earlier stage. At the time of the event, many police officers had been transferred to neighbouring precincts to give them 'something to do'. Most of them were idle as 'nothing happened'.

Despite the fact that no violence occurred in connection with other matches in the middle-risk category, several matches were characterized by fear of violence and were also influenced by the knowledge of the disturbances in Malmö. The officers were more severe and tense as they waited to see what would happen. The objective to keep a positive attitude and a high level of tolerance was maintained.

The two high-risk matches (Holland-Germany and Germany-Sweden) started or ended with explosive riots. No serious incidents were observed before, during or immediately following the matches. The fighting in Gothenburg started at noon and after the match, in central Gothenburg, it recommenced. After the match between Germany and Sweden which took place in Stockholm
Varia

(Solna) the fighting started shortly after 11 p.m. The police in both Stockholm and Gothenburg did gradually succeed in controlling the riots but they made a few serious mistakes. Firstly, preparations for the match between Holland and Germany in Gothenburg were deficient. At an early stage information was given by the German and Dutch police that supporters intended to cause trouble but due to bad organization only a limited number of policemen were in the city area by the time all the supporters had gathered and were already constituting a big threat to public disorder.

Secondly, despite knowledge of the behaviour of the hooligans, the police expended large resources at times and in places where hooligan-related problems were unlikely to occur.

Conclusions and discussion

At least four different conclusions can be drawn from the study. First, that the established goal and policy, i.e. 'friendly games and standard methods', which consisted of keeping a low profile, showing a high level of tolerance and of being around if something were to happen was maintained.

Despite the fear expressed in the media and by others regarding hooliganism, with a few exceptions, very little happened, and the European Championships became the 'football festival' it was meant to be. A consequence of this was that the police officers became idle and bored. Many of the interviewed police officers were critical of the working hours' agreement and considered the bullying manner of the union to be most unsatisfactory. While the management tried to solve the recurrent problems of overtime-duty, some police officers suffered due to inactivity. The duty itself proved to be a hindrance to regular police work. Receiving information about an assault and battery and not being able to intervene was perceived as frustrating, regardless if the offence was related to the Championships or not. The police policy of 'standard methods' appears incorrect on such occasions.

Secondly, there was the problem of adjusting police work to the behaviour of the hooligans. From research and other sources of information there is a mutual understanding that hooligans seldom cause problems or interfere during the actual game, only before and afterwards. However, problems did arise in some places where police had difficulty keeping control due to the location.

The fact that, for different reasons, violent incidents occurred every now and then, clearly sheds light on the problems faced by the police in these contexts. The police have several goals to attain simultaneously. One is to make sure that the matches are played without interference and to ensure that the themes of 'friendly games' and 'football festival' are upheld. Another is to stop violent incidents. A third is to prevent the influence of negative events affecting the support groups but also to control and stop the recurring violence in places other than the actual football field.

Massive police resources were put into the actual matches despite knowledge and advice being given to the Swedish police by hooligan
researchers and others with experience of football violence. Perhaps the events which took place in Heysel and Hillsborough influenced the planning more then necessary, due to the violent character of these incidents and therefore the police were afraid to divide their resources otherwise, especially outside the football fields.

A third conclusion, based on personal observations and discussions with the commanding officers, is the problem of flexibility in connection with riots in the cities of Malmö, Gothenburg and Stockholm. Many policemen perceived the demand to keep the police force as a unit in order to surround the hooligans in the cities as less effective and unsatisfactory. It was almost impossible to control the hooligans running riot in the city centres and keep the formations at the same time. Not to mention the burden of carrying the heavy equipment; shields, overalls, boots, helmets etc., which partly reinforced the ineffectiveness. On the other hand, the equipment and a unified police force can have a positive influence on the police. It facilitates controlled and calm behaviour but also moderates fear.

Finally, I would like to refer to the question of reactive police work. The preparations undertaken before the European Championship were part of a commendable effort to moderate the reactive elements and to keep a preventative attitude towards the accomplishment of their appointed task. One example is the extensive intelligence service within and between the participating cities regarding the ravages of the hooligans. Another is the massive preparedness ‘in case something should happen’.

The police organization is not the sole performer with an almost preposterous responsibility in these contexts. When preventing hooliganism we should not forget the invaluable preventive work carried out by the sport organizations and football clubs.

In general, short-term solutions regarding sport violence and crime prevention seldom give the desirable effects. The necessary, preventive work should be aimed at long-term solutions, systematization and contingency, since such methods increase the understanding and hence contribute to more satisfactory and adequate solutions.

All in all, perhaps the most difficult problem in connection with the evaluation of the European Championships was the fact that ‘everything’ by and large went well. To whom do we give the credit, the police or the supporters? What would have happened if the police had acted differently or not at all?

(The complete report will be published in autumn 1993.)

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Statewatching the new Europe: a handbook on the European state

The handbook is a Statewatch publication. Statewatch is an independent group of journalists, researchers, lecturers, lawyers and community activists. In their opinion much of the information about the new European state is inaccessible and shrouded in secrecy and has not been open to discussion in parliaments. This handbook is intended to try and remedy this by bringing together the available information and placing it in an analytical framework. It looks at the European state, linking the developments on the Trevi and the Schengen groups, Europol and the European Information System, immigration and asylum policy. A short impression.

The European State
In this section Tony Bunyan charts the development of ad hoc groups covering immigration, asylum, policing and law under the umbrella of governmental cooperation between the 12 EC states since 1975. His work is divided into three parts: I: the history and role of the Trevi group; II: the emergence of Europol in the post-Maastricht era; III: the emergence of the European state. It includes detailed descriptions of the main developments as this information has been taken from reports and documents which are not readily available. He also discusses the issue of the secrecy that permeates the work of inter-state EC bodies and working parties that are deciding the shape of the European state.

Police and security services
Peter Klerks gives an overview of Police Forces in the EC and European Free Trade Association (EFTA) countries including statistical information. He tries to cover the intelligence and security agencies in these countries as well, with the emphasis on 'internal security'. This last survey is incomplete as the extent and quality of information available varies from country to country.

Internal controls
Mike Tomlinson examines some of the key features of the Northern Ireland conflict and its management in the context of the emerging European state. Northern Ireland is the foremost source of armed conflict in the EC. The article examines the buildup of armed forces, the role of intelligence agencies and undercover units, the issue of North/South collaboration on security policy in consequence of the removal of all border controls in Europe, the long-standing issue of extradition and the movement of convicted prisoners between Britain and Ireland.

Immigration, racism and fascism
Frances Webber gives the state of affairs on immigration and asylum in the various EC countries and also on the European conventions on this matter. Liz Fekete has done a country by country survey of far-right parties and racist violence.

Some interesting areas have not been covered like prisons and data protection because of the lack of information. Not
all information in the book is new, e.g. that on Police Forces, and can also be found in other handbooks. However the book contains a lot of connected information that is conveniently arranged. The intention is to prepare a revised and up-dated second edition for publication in 1995.

To keep in touch with on-going developments within sections as for example policing, immigration and civil liberties you can subscribe to the Statewatch bulletin, which is published six times a year. The bulletin contains: news, features, listings of books, reports and articles, and debates in the UK and European Parliaments. Subscriptions £ 10 (individuals) £ 20 (institutions).

*Statewatching the new Europe: a handbook on the European state,* edited by Tony Bunyan
London, Statewatch, 1993
£ 4.50 (including P&P)

*Elly van den Heuvel*
*Euro-information officer, RDC*
Crime institute's profile

The Research and Planning Unit of the Home Office (England and Wales)

Roger Tarling

The Home Office is one of the oldest Government Departments, originating in 1782. It is headed by the Home Secretary and four Ministers of State. The Home Secretary has overall responsibility for a wide range of issues particularly crime and criminal justice but also equal opportunities, race relations, immigration, refugees, electoral matters, licensing, and charities.

The Home Secretary has statutory authority to finance and conduct social research into areas of concern to the criminal justice system and community relations. Most of such research is conducted within the Research and Statistics Department (RSD) although some more specialized research is carried out in other Home Office research units such as the Police Research Group. The RSD consists of three Statistics Divisions, the Programme Development Unit and the Research and Planning Unit (RPU). The Statistics Divisions collect, process, analyze, disseminate and publish statistics relating to Home Office responsibilities. The Programme Development Unit is a fairly recent addition and is responsible for the development, funding, monitoring and evaluation of innovative local projects particularly in relation to crime and criminal justice issues.

The RPU's role

The role of the RPU is to provide a service of research, policy analysis, information and advice to the Home Office. It is a major criminological research institution though its work is not restricted to crime. In addition to the internal research programme, the Unit is one of the main funders of criminological research. The research produced by and for the RPU is policy-orientated. It provides policymakers with objective information to enable them to make informed decisions. Through the dissemination of its published work the Unit also keeps practitioners and the public informed, and contributes to

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the wider debate on Home Office affairs.

Organization

The RPU has been in existence since 1957, although its structure has changed over the years. The professional staff of 50 includes social scientists, economists, operational researchers, statisticians and computer scientists supported by an information and administrative unit. The RPU manages a budget for external research of about £1.4 million per year, with an additional £600,000 to fund the British Crime Survey. Projects are sometimes joint ventures between academics and internal staff, which encourages the exchange of views and expertise with researchers in other organizations including the criminological research community.

There are three main components to the programme:
1. Research on crime and the administration of criminal justice covers seven themes:
   - the British Crime Survey, which is a victim survey providing an index of crime to complement police statistics;
   - juvenile offending and crime reduction;
   - assessing the effectiveness of different ways of dealing with offenders;
   - improving the efficiency of the administration of criminal justice;
   - the needs of victims of crime;
   - misuse of drugs and the links between drugs and crime;
   - gender and race issues within the criminal justice system.
2. The research programme on policing divides into three broad areas:
   - looking at the efficiency and effectiveness of police organization and management including workload, resource input, and output measurement;
   - use of police powers and procedures from apprehension to arrest and prosecution;
   - aspects of crime prevention.
3. The research programme for the Prison Service covers seven themes:
   - information from national surveys of prisoners and prison staff used for strategic planning;
   - custody and control issues including security matters;
   - the health care of prisoners;
   - questions of justice such as fair treatment of prisoners, and racial equality issues;
   - effectiveness of prison regimes and programmes;
   - contracting out: the work of the private sector within the prison.
system;
— parole issues such as new release procedures.
Other parts of the Unit’s programme include research on aspects of immigration, voluntary organizations and race relations.

A programme of research is planned and published for each financial year. In doing so we follow the ‘customer/contractor principle’ that there should generally be a policy division standing as a customer for each project. The programme for 1993/1994 includes 66 projects in progress, and a similar number of projects at the planning stage.

Some recently completed research projects

It is not possible to describe here all the projects carried out during the last year but those mentioned below give some flavour of the range of work undertaken and commissioned by the Unit.

The first results of the 1992 British Crime Survey (BCS) were published in October, giving an index of crime which includes crimes not reported to the police. The BCS suggests that the rise in crime is lower than police statistics imply. Further reports are due this year on a wide range of topics including the risks of crime, attitudes to punishment, ethnic minorities and victimization, experience and knowledge of drug misuse, and teenagers’ experience of crime.

The RPU has published three papers in relation to gender, race and the criminal justice system and the costs of the criminal justice system, in relation to Section 95 of the Criminal Justice Act 1991. Section 95 specifies that the Home Secretary should publish yearly information to help those working in the criminal justice system to avoid discriminating against anyone on the grounds of gender or race. Further publications on these topics are planned for 1993.

A large programme of research in progress is looking at ways of dealing with offenders in the community. We have just completed an evaluation of the implementation and impact of intensive probation programmes, and are starting another on new community penalties.

Several projects on drug misuse have been completed including a major study of crack and cocaine use in England and Wales.

The results of the National Prison Survey were published. This survey looked systematically at prison life as seen through the eyes of men and women held in prisons in England and Wales. A research project on self-injury and attempted suicide in prisons was completed and its results have already helped to inform policy and practice with regard to suicide prevention.

Reports included the use of compensation orders in magistrates'
courts, and the impact of the revised PACE Codes of Practice (PACE is the Police and Criminal Evidence Act which sets out detailed guidance to the police on the detention, treatment, and questioning of suspects).

Various projects in relation to the police have been carried out, including a survey of public satisfaction with the police and work on police management systems. The Unit has undertaken various evaluations of crime prevention initiatives including the Safer Cities programme, which established crime prevention coordinators working with local steering committees in 20 urban areas.

Publication

Publication is an integral part of the Unit’s work. All major internal projects are published either as a Research and Planning Unit Paper or as a Home Office Research Study (HORS). Short summaries of these reports are published in our ‘Research Findings’ series. We also publish a ‘Research Bulletin’ twice a year. Further details of publications can be obtained from the Research and Planning Unit. Maintaining the objectivity and scientific integrity of the research is essential and the practice of publishing our research encourages this. Placing government research in the public domain not only ensures that research findings can contribute to social policy and inform public debate but also provides the opportunity for independent assessment and review.

Dissemination of research findings ensures that publications reach the full range of readers who will find them useful in their work. This includes managers within the criminal justice system; those working at the sharp end in the police forces, magistrates’ courts and probation services; plus academics, libraries and professional bodies. RPU publications are sent to about 3,000 people in England and Wales with a further 700 plus abroad.
Abstracts

This section gives a selection of abstracts of reports or articles on criminal policy and research in Europe. The aim of publishing these short summaries is to generate and disseminate information on the crime problem in Europe.

The selected articles are all oriented towards the European crime problem. Articles that generate comparative knowledge are seen as of special interest. Most of the articles are published in other journals in the English language. It is hoped for that the section will cover all interesting and relevant developments and results in criminal policy and research in Europe.

More information can be supplied by the RDC-Europe Documentation Network. This network was initiated in 1992 and coordinated by the RDC documentation office. This office has begun developing a European documentation network on the problems concerning international crime. The purpose is to coordinate the flow of information on this topic within Europe and make it accessible for European researchers, policymakers and other interested people. In addition to the main topic of international crime other issues concerning criminal policy and research will be covered.

Single copies of the articles mentioned in this section can — when used for individual study or education — be delivered by the RDC documentation service at your request. A service charge is made.

RDC-Europe Documentation Service
E.C. van den Heuvel, P.O. Box 20301
2500 EH The Hague, The Netherlands
Tel: (31 70) 3707612;
fax: (31 70) 3707948

Allan, R.
New world order brings chaos and crime in many countries
*CJ International*, vol. 9, no. 3, 1993, pp. 11-18

This is an article on crime in Eastern Europe. Contents: crisis of mass migrations, art theft, health and environmental danger, law enforcement crisis in the East; crime in Poland, Germany and the former Soviet Union. International criminal activity is growing at an alarming rate since the demise of communism unleashed extreme unrest in the East. Narcotics, money-laundering, mafia-like cartels, proliferation of weapons and weapon technology have become the norm. Both the Italian mafia and the Colombian drug cartels have found the cash economies and the newly-private enterprise of the emerging democracies to be golden opportunities for exploitation.

Block, R.
A cross-national comparison of victims of crime: victim surveys of twelve countries
*International review of victimology*, vol. 2, no. 3, 1993, pp. 183-207

A comparison of national crime surveys must be made very cautiously because of differences in sampling, methodology and content. In this report methodological differences between the United States’ National Crime Survey and victimization surveys of other countries are examined and survey estimates of victimization are adjusted. It is found that US rates of assault/threat, robbery, and burglary are not extraordinarily higher than those of eleven other countries or regions. However, US levels of gun use are much
higher and US levels of both gun and non-gun lethal violence (using Killias, 1990) far exceed those of other industrialized societies.

Cavadino, M.
Explaining the penal crisis
*Prison service journal*, no. 87, 1992, pp. 2-12
There has been persistent talk of a 'crisis' in the British penal system for over twenty years now. Indeed, a cynic might say that the idea of a penal crisis has become that rare thing, a self-refuting cliche. But what is the nature of the crisis – if that is what we choose to call it – and why does it exist? There is widespread agreement that prison overcrowding, prison riots and unrest among prison staff and inmates are all important features of the crisis. But various competing accounts are in existence about how these problems are related to each other, and what the underlying causes of the crisis are – in short – how to explain the penal crisis.

Clark, D.A., M.J. Fisher et al.
A new methodology for assessing the level of risk in incarcerated offenders
*The British Journal of Criminology*, vol. 33, no. 3, 1993, pp. 436-448
A review of the literature relating to the assessment of risk in incarcerated offenders is given. A new methodology for the actuarial assessment of risk based on the prediction of the way in which offending behaviour traits will be manifest in a prison environment is described. A validation of this methodology is described giving a level of accuracy of 65 per cent. A measure of the accuracy, the rated percentage agreement (RPA), is described and the inter-rater reliability of the methodology is investigated. The utility of the instrument in a prison environment is outlined and implications for future refinement and validation are discussed.

Collison, M.
Punishing drugs; criminal justice and drug use
*The British Journal of Criminology*, vol. 33, no. 3, 1993, pp. 382-399
Recent government policy and legislation advocates the diversion of drug offenders and drug-using offenders from the criminal justice and penal systems into voluntary and statutory treatment programmes. Harm reduction should ideally inform enforcement strategies. This article argues, through the use of a local case study in one county in the UK, that during the 1980s large numbers of users experienced the strong arm of the law because of the structure of treatment programs and court sentencing philosophies and practices. By exploring some of the present routes into, and out of, treatment and on into the prison system it is suggested that the new measures in the Criminal Justice Act 1991 may have only a limited impact on the problems posed for the criminal justice and penal systems by users of Class A drugs because of operative representations of dependency, motivation, and culpability.

Farrell, G., W. Buck et al.
The Merseyside domestic violence prevention project: some costs and benefits
*Studies on crime and crime prevention*, vol. 2, 1993, pp. 21-33
The article has three objectives of equal priority. The first is a consideration of cost-benefit analysis as a means of evaluating crime prevention work. An alternative form of 'costing' crime, based upon offence seriousness, and which might accommodate non-pecuniary crime such as domestic violence, is suggested. Within this context, the second objective is to describe an ongoing violence prevention project funded by the Home Office, and to present some of the initial results. Technological prevention, in the form of quick response alarms, is combined with social support for victims of repeated violence. The third objective is to suggest that the technological aspects of the strategy might be used...
Abstracts

Farrington, D.P., P.-O. H. Wikström
Changes in crime and punishment in England and Sweden in the 1980s,
Studies on crime and crime prevention, vol. 2, 1993, pp. 142-170
This article aims to estimate, for England and Sweden, the flow of offenders from crimes committed to crimes reported, recorded and cleared, convictions, prison sentences and time served. The emphasis is on estimating probabilities linking each stage of the criminal justice system (e.g. the probability of an offence leading to a conviction or to a prison sentence). Estimates are provided for six offences in two years (1981 and 1987): residential burglary, vehicle theft, robbery, assault, rape and homicide.

Fijnaut, C.
The Schengen treaties and European police co-operation,
In order to discuss the importance of the Schengen Treaties in relation to the history and the future of international police cooperation in Western Europe, the author first explains the background and content of the treaties, insofar as they are relevant for the subject. It is important to do so because otherwise much of the debate about the Schengen Treaties and a lot of the impact they have had up to this moment would be difficult to grasp. Secondly, it is pertinent to make some comparisons between the relevant provisions in the Schengen convention and some of the existing formal or, at least, official arrangements for police co-operation in the original five Schengen states. Only in this way can judgment be passed on the innovation this convention is said to effect in international policing within the boundaries of the European community. Thirdly, the connection between the Schengen Treaties and the Treaty on political union is questioned.

Frizzell, E.W.
The Scottish prison service: changing the culture,
Disorder in prisons in the 1980s led to a searching debate within the Scottish Prison Service, which produced a commitment to change from a reactive and defensive culture into a more open, proactive one. The aim is now a 'quality service' in which prisoners will be viewed as responsible persons and be presented with opportunities about how they wish to use their period of imprisonment. A cultural change of this kind affects the way in which the service organizes itself, takes decisions and treats staff. Changes are now in hand which 'migrate' tasks to establishments and empower Governors-in-Charge – and their staff. Inevitably this new style of prison management will take time and encounter difficulties. The Scottish Prison Service is committed, however, to its goal of a more enlightened Prison Service.

Gesch, B.
Natural justice: a pilot study in evaluating and responding to criminal behavior as an environmental phenomenon; the South Cumbria (England) Alternative Sentencing-Options (SCASO) Project,
International Journal of Biosocial and Medical Research, vol. 12, no. 1, 1993, pp. 41-68
'Natural Justice' explores the mechanisms whereby non-sensory influences can influence criminal behaviour and the implications for the criminal justice system. The article goes on to detail the professional model that SCASO is developing as a community-based biosocial response to crime which courts use as an alternative to custodial sentence. This section describes the assessment process, legislative framework, presentation to court and treatment programs. The article concludes.
by detailing observations of clients’ responses to this form of treatment. These include rapid cessation from multi-addictions and suicide attempts; improved functioning of their bodies; improved mental alertness and relaxation; and hitherto unprecedented reductions in criminal behaviour.

Gropp, W.
Special methods of investigation for combating organized crime; investigation by computer screening, police surveillance, long-term observation, implementation of technical devices, and deployment of undercover agents


The law for combating illicit traffic in narcotic drugs and other manifestations of organized crime came into force on September 22, 1992. This law includes, among other things, modifications of the code of criminal procedure and expressly provides for the introduction of so-called special methods of investigation. Specifically, it introduces measures of investigation by computer monitoring, police surveillance, the implementation of technical devices, and the deployment of undercover agents. Although the provision of long-term observation included in the draft of the criminal procedure amendment act is no longer a part of the law for combating illicit traffic in narcotic drugs and other manifestations of organized crime, it is nonetheless dealt with in the present study in view of its practical significance. The results of this comparative study are based on a report covering the EC countries, Austria, Switzerland and the USA.

Hauber, A.R.
Fare evasion in a European perspective
Studies on crime and crime prevention, vol. 2, 1993, pp. 122-141

The main concern of this study is to provide a description of the public transport situation and the consequences of fare evasion in a number of European cities. By gathering data on fare evasion on one hand and the public transport situation in a number of different countries on the other, a clear picture of the relationship between these two factors could be obtained. The public transport systems in important cities in Belgium, Denmark, England, France, Germany, the Netherlands and Switzerland were studied. The aim of the study is, on the basis of this international experience, to develop recommendations for future policy concerning fare evasion.

Junger, M., W. Polder
Religiosity, religious climate and delinquency among ethnic groups in the Netherlands
The British Journal of Criminology, vol. 33, no. 3, 1993, pp. 416-435

In this article the effect of religiosity on delinquent behavior is examined for Moroccan, Turkish, Surinamese (subdivided into Hindustani, Creoles, and Javanese), and Dutch boys. It is proposed that religion can be considered as an element of the social bond. Next, the distinction between moral and secular communities introduced by Stark et al. (1982) is applied to the ethnic groups, leading to the conclusion that Moroccans and Turks live in moral communities, while the Dutch live in a secular community. The results show that there is a modest relation between religiosity and delinquent behaviour in some groups, but the distinction between moral and secular communities does not help to explain these relations. Socio-economic background variables appear to be unrelated to religiosity. Finally, some comments are presented on the characterization of communities as moral or secular. It is concluded that it may be necessary to have additional information on the social networks in a community to find an explanation of the relation between religiosity and delinquency that is applicable to different cultures.
Junger-Tas, J.
Policy evaluation research in criminal justice
*Studies on crime and crime prevention*, vol. 2, 1993, pp. 7-20

The article underlines the need for research in improving policy decision making. This must be based on: the use of research in achieving a better adjustment between policy objectives and means used, strict methodological requirements, the importance of (policy) theory and the presence of a general policy framework within which the researcher must operate. Evaluation of crime prevention policies, diversion programs and alternative sanctions are discussed. Crime prevention interventions which make it more difficult for potential offenders to commit offences, or which increase the risk of being caught and punished, are among the most effective. Indirect interventions aimed at better social integration of youth at risk are less effective in terms of reoffending. Diversion projects are effective in reducing vandalism. Effects of alternative sanctions are difficult to measure, but seem moderately positive.

Le Monde, R.
ACPO, NACOSS and the UK intruder alarms industry
*The Police Journal*, vol. 66, no. 3, 1993, pp. 303-305

The UK is probably unique in having a police service which responds to emergency calls and the intruder-alarms industry appreciates the privileged position it enjoys as a result. While the industry actively wishes to encourage the well-being of that relationship, what it would also like to see is positive and constructive help along the road to achieving the self-regulation and enhanced systems performance that will give everybody peace of mind.

Levi, M.
White-collar crime: the British scene

This article describes and analyzes key features of white-collar crime and its control in Britain. The frauds largely involve cheques and credit cards, embezzling, and businesses obtaining money or goods under false pretences. The relatively rare large-scale frauds typically surface when insolvency occurs. Lengthy, expensive, and inconclusive recent trials of some huge white-collar offences have raised the question of the efficacy of such prosecutions.

Lévy, R.
Police and the judiciary in France since the nineteenth century; the decline of the examining magistrate
*The British Journal of Criminology*, vol. 33, no. 2, 1993, pp. 167-186

The author deals with two points successively. In the first part, after briefly describing the organization of the French judiciary and the police in the early nineteenth century (concentrating on the organs involved in the preliminary phase of a prosecution), the author describes the transformations undergone by the judicial police (equivalent to the English CID) in the course of the last century. In the second part the author tries to demonstrate how this evolution has affected relations between the police and the judiciary up to the present day.

McConville, M., C. Mirsky
Looking through the guilty plea glass: the structural framework of English and American state courts
*Social and Legal Studies*, vol. 2, no. 2, 1993, pp. 173-193

The central theme of this article is to examine the ways in which the American and English systems of criminal justice, structured and operating as guilty plea machines, seek to reconcile or confront the tenets of liberal legalism which characterize each system as accusatorial, adversarial, independent of and a check upon the law enforcement activities of the state. The authors first address the effect of cultural factors on the organizing rhetoric of each system. They then analyze the structural features
of each system to explain how guilty pleas have replaced the adversarial trial as the principal means of case disposition. Finally, they consider the effect that the guilty plea process has on the behaviour of police and the role of courtroom actors.

Murji, K.
Drug enforcement strategies

Four approaches to drug enforcement are appraised. Three of these are characterized as the conventional approaches which have been dominant through most of the past decade. The arguments for and the limitations of each are considered. It is argued that the shortcomings of these conventional approaches have led to renewed interest in enforcement aimed at the street or retail level of the market. Drawing on economic models of the drug market and the behaviour of drug buyers, the arguments for low level drug enforcement are described, and some problems with this approach indicated.

Nikiforov, A.S.
Organized crime in the West and in the former USSR: an attempted comparison
*International Journal of Offender Therapy and Comparative Criminology*, vol. 37, no. 1, 1993, pp. 5-15

The author makes an attempt to compare organized crime in the West and in the former USSR. He looks at the definition and the basic elements of organized crime. Some traits are mostly characteristic of Western Europe, the United States and other 'westernized' nations. Some have also emerged in the former USSR. In the former USSR organized crime consists mainly of white-collar schemes. The author presents an overall definition of organized crime, which fits both western and 'Soviet' models.

Ostrihanska, Z., D. Wojcik
Burglaries as seen by the victims
*International Review of Victimology*, vol. 2, no. 3, 1993, pp. 217-225

The article discusses preliminary findings of the study of the victims of burglaries in Warsaw in 1990. The findings are based on data from questionnaires completed by fifty victims of residential burglaries and from interviews with twenty of them interviewed six months later. The respondents expressed persistent anxiety, a sense of threat and a sense of helplessness. Penalties suggested by the victim for the offender were rather repressive, but 25 per cent of the victims considered it possible to relinquish punishment should the burglar repent of his act, redress the damage and offer compensation. Most victims find the police polite and willing but at the same time inefficient and dilatory when dealing with their complaint.

Parker jr., L.C.
Rising crime rates and the role of police in the Czech Republic
*Police Studies*, vol. 16, no. 2, 1993, pp. 39-42

Since the 'Velvet Revolution' of 1989, when Czechoslovakia experienced the fall of communism, social and economic instability have contributed to rapidly rising crime rates. Police, and the criminal justice system in general, are struggling to cope with these serious developments.

Ruggiero, V.
Organized crime in Italy: testing alternative definitions
*Social and legal studies*, vol. 2, no. 2, 1993, pp. 131-148

In this article the author critically revisits the best known causal interpretations of organized crime, and reviews the most relevant definitions of it. Finally, the author tries to update both in a conclusion which is, by necessity, tentative and provisional. Organized crime, in fact, evolves more rapidly than an understanding of it.
Abstracts

Serio, J.
Organized crime in the Former Soviet Union: only the name is new
CJ International, vol. 9, no. 4, 1993, pp. 11-17
Since the collapse of the Soviet Union, Russia and the other former Soviet republics have been experiencing an explosion of organized criminal activity. This article is the first of two articles describing the characteristics of the so-called Red Mafia and its impact on the international arena.

Szumski, J.
Fear of crime, social rigorism and mass media in Poland
The article presents the results of the few victimization surveys carried out in Poland. They reveal relatively low levels of crime in Poland, but they are not correlated with the official criminal statistics. The article criticizes the method of compiling criminal statistics adopted by the Polish police, a method which enables enforcement agencies to manipulate the statistics on the dynamics of crime. Despite the low fear of being victimized, the results of sociological and legal empirical studies show that Polish society is rigorous as far as controlling crime is concerned. The article argues that the main cause of this stems from a mass media information policy which is not based on objective facts nor on scientific findings, and which did not change following the destruction of so-called 'real socialism'.

Tilt, R.
Prison staffing issues in Europe
Prison Service Journal, no. 89, 1993, pp. 2-6
In this article a comparison is made of the prison systems in France, Germany and the Netherlands. The author sets himself the following objectives for the study: to examine the state of industrial relations in the three countries visited; to examine the basic personnel procedures, particularly in relation to: assessments of staffing numbers of prison officers; working arrangements for prison officers; pay and conditions of service for officers; recruitment and training for prison officers; and further to examine the procedure for handling industrial relations and to draw out the underlying differences in the systems in relation to the industrial relations climate. In each country the author arranged to spend some time at the Department of Justice of the three countries, followed by a number of visits to establishments and usually ended with a final meeting at the Department of Justice for a discussion of the issues raised by the visits.

Uit Beijerse, J., R. van Swaaningen
Social control as a policy: pragmatic moralism with a structural deficit
Social and Legal Studies, vol. 2, no. 3, 1993, pp. 281-302
In this article the authors evaluate the actual effect of five years' experience of crime prevention as proposed by 'Society and Crime'. They first outline the content of the so-called 'radical redirection' and 'clear principles' of the White Paper with regard to petty crime - leaving aside the plan's paragraphs on serious crime, for which a tougher approach was advocated. Subsequently, they examine how several crime prevention projects actually function in practice with reference largely to their own research in a working-class neighbourhood in Rotterdam, and briefly making some comparisons with an English and a German study. The authors put the problem of petty crime in its socio-economic context.

Van den Bogaard, J., O. Wiegman
Property crime victimization: the effectiveness of police services for victims of residential burglary
Journal of Social Behavior and Personality, vol. 6, no. 6, 1991, pp. 329-262
The central section reviews six experimental evaluation studies of police services for burglary victims in the Netherlands, Great Britain and the United States. It is concluded that few services
focus on specific consequences of burglary with respect to home, privacy and property. Effects of the services on taking burglary preventive measures and on victims' evaluations of the police are generally positive. The main result is that police interventions do not reduce the psychological impact of the burglary on the victims and sometimes even lead to increased fear of property crime. Several explanations for this finding are discussed. Evidence is given which indicates that further theoretical developments and future practices can benefit from increased knowledge about the meaning of privacy and personal possessions for victims of burglary.

Van Niekerk, M.
Ethnic studies in the Netherlands: an outline of research issues
Research Notes, no. 1, 1993, pp. 2-14

It took some time before Dutch policymakers and social scientists recognized that the Netherlands were transformed into an immigration country after World War II. The last decades, however, show a steady growth of ethnic studies, characterized by a close link between research and government policy. A more recent development is the shift away from police-oriented studies to university research programming and inter-university cooperation. After a short explanation of immigration, migration policy and research programming in the Netherlands, this article provides an overview of the most important themes and fields of study in ethnic studies in the last two decades.

Walker, C., K. Reid
The offence of directing terrorist organisations
The Criminal Law Review, September 1993, pp. 669-677

The offence of directing terrorist organizations enacted by section 27 of the Northern Ireland (Emergency Provisions) Act 1991 is the latest in a long line of measures directed against the 'godfathers' of terrorism. It is concluded that the impact of the offence is likely to be felt more in terms of sentencing and presentation than in terms of extending the boundaries or the effectiveness of the criminal law.

Wells, C.
Corporations: culture, risk and criminal liability
The Criminal Law Review, August 1993, pp. 551-566

Calls for corporate criminal liability reflect cultural attitudes towards technological hazard. This article has attempted to develop a framework for debate about the criminal responsibility of corporations. The criminality of corporations has been a neglected topic in England despite the contemporary concern about technological hazards. It is important to recognize the contingent and chance nature of the structure of current rules of liability. Viewing recklessness through the lens of the cultural role played by risk underlines the need to consider culpability principles beyond the legal vacuum.

White, R.W.
On measuring political violence: Northern Ireland, 1969 to 1980
American Sociological Review, vol. 58, no. 4, 1993, pp. 575-585

Results of research on the causes of political violence are questionable owing to poor reliability of data and the tendency to combine violence perpetrated by several different actors in a general measure of 'political violence'. Dynamic models and a focus on the context of violence allow examination of these issues. The author compares an overall count of political deaths from The New York Times Index with a comparable count from a more complete database. The statistical inferences generated using the two measures are virtually identical.