Wardens and enforcement officers in (semi-)public space - an international comparison -

Summary

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Introduction
Since the early 1990s in the Netherlands, surveillance and enforcement are no longer the exclusive tasks of the police alone. In addition to the regular public police there are now all kinds of (non-police) guards, patrollers, wardens and officers working in the public space, under the eyes of the general audience. In a period of only two decades a complex of providers for the guarding, surveillance and enforcement tasks has arisen, both in the public domain (on the streets, the market or in the parks), and in areas that are privately owned, but that many citizens perceive as public and free accessible (so-mentioned semi public space), like large malls, entertainment areas or business parks.
This new field is even more complex, because it is not only about public and semi public space, but also about the use of both public and private workers and officers. They can provide their services contracted by both public and private auspices. In addition, there are also important differences in the legal basis of these new workers and officers, their specific tasks, (formal) powers, equipment and uniform, among others.
The growth of new wardens and enforcement officers cannot only be observed in the Netherlands, but also in many other countries, both within and outside Europe. It is often described as ‘plural policing’ or as an ‘extended policing family’. It might be assumed that in different countries these processes of a pluralisation of policing cause partly similar, partly different problems and issues. From the perspective of the Netherlands, it might be relevant to know how these developments have been going elsewhere, and in other countries different answers were found that have been raised by this plural policing process.
International comparative studies on the pluralisation of policing are important because they may shed a new light on factors and circumstances that may contribute to this process. By studying other countries, causes that in the Dutch context may seem almost natural, might not seem so obvious. Such a study might yield information about background factors that may easily be overlooked in the Netherlands’ context. International comparative research may be relevant to learn from experiences elsewhere.

Research question
The general question of this study is:
Which non-police providers of policing are present in other countries with tasks concerning public safety in the (semi)public space, what is their position, what are experiences there, and what may be lessons to be learned for the Netherlands’ situation?

This general question consists of eight sub-questions. These questions concern the following issues:
- the background factors contributing to or the rise of non-police providers of surveillance and enforcement in public space;
- tasks, responsibilities, work areas, and (quality) requirements;
- problems that may arise in the work of these wardens and enforcement officers;
- the role of private security;
- cooperation with the police and other parties;
- protection of citizens against abuse of powers;
- public debate about the role of these wardens and enforcement officers;
- lessons to be learned.

These questions refer to surveillance officers (also called wardens or guards) and enforcement officers in the (semi-)public space. This means that in this study some categories of officers are not included, such as traffic wardens, guards in public transport, officers that have the task of control on environmental regulations and those who are deployed at large-scale events like music festivals. These professional groups are not included in this study because public safety (crime and social disorder) are not among their focal concerns.
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Selection of the countries
Several criteria were used to select the four countries for this study. First, each of these countries to be studied should have a minimum level of plural policing. Secondly, the situation of plural policing in the country should not differ too much from that in the Netherlands. Thirdly, there was looked for some diversity in plural policing. Finally, practical considerations were also important in the selection of the countries, like travel distance and the skills to read and speak the language of the countries concerned.

Following these standards, four countries were included in this study: England & Wales, Belgium, Austria, and Canada. It was assumed that the two countries mentioned first would to a certain degree resemble the situation in the Netherlands. Austria was chosen as an example of a continental European country where the state still has much of its strong traditional position. Given the federal structure of Canada and the important differences in police structure between the provinces there, in this country the study concentrated at the province of Ontario. At the beginning of our study there was some information that showed that Ontario might be an interesting case, mainly because of the strong private component in plural policing.

The study was conducted in a number of steps for each country. First, literature and documents were collected, then relevant persons were contacted by email, and finally in each country a number of key persons were interviewed extensively. On the basis of the information gathered in this way, for each country a report made up.

In chapter 2, a relatively brief description of the situation in the Netherlands is given. This chapter is based on information and knowledge that already was present with the authors. The chapter on the Netherlands follows the same pattern as the chapters on the other countries. This chapter is providing a frame of reference for the analysis provided in the subsequent country chapters.

Plural policing in four countries
In Chapters 3 to 6 an analysis is given of plural policing in successively England & Wales, Austria, Belgium and Canada (Ontario). Each of these chapters has a comparable structure. After some general information about the country, the main outlines are sketched of the police system. Next, the position of the public wardens and enforcement officers working in (semi)public space are described, followed by an analysis of the private officers. Finally, the cooperation with the police, legal means to protect citizens’ rights against abuse of powers by these non-police providers of policing are discussed. Although each chapter has a comparable structure, the specific situation in each of the countries requires to pay attention to specific situations and problems.

England & Wales
In England and Wales a complex division of labor in policing and security arose. The police are increasingly seen as only one of the agencies that are involved in the surveillance and enforcement in the public space. Rather specific for England & Wales is the position of the Police Community Support Officers (PCSO's) who were introduced in 2002. They are employed in the police force, although not police officers with full police powers. In this country the PCSO's are the most important category of officials with whom the general public has a regular contact today. Thus, in England & Wales the PCSO's provide a ‘police solution’ for the control of nuisance, anti-social behavior, social disorder and petty crime. Next there are also wardens (non-police, no specific powers). Citizens have generally a positive view on their work. However, many municipal governments do not want to spend much money on these wardens and would prefer more enforcement officers. In recent decades in England & Wales the numbers of private security guards have grown dramatically. The private security companies are ready to provide their services also in the public space, but as yet it is unclear if this really will result in a (new) strong economic growth of this sector.
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**Austria**
In Austria relatively much emphasis is placed on legalistic, formal and hierarchical elements of supervision and enforcement. The monopoly of the state in the safety care is still assumed. Nevertheless, also in this country there is a withdrawing movement of the police in relation to local issues and priorities. Also as answer to that, in Austria there are, in addition to the police, public wardens (including the municipal Services of Public Order, in German: *Ordnungsdienst*) and private security guards in the public space. Also there is a strong politicization of police and security. The political differences on the subject police and safety are very large in Austria. In addition, opinions differ widely from the traditional distinction between right and left. Despite the more legalistic culture in Austria, it must be concluded that in this area in many ways a much weaker regulation exists than in the Netherlands. There is more ambiguity about the powers and tasks of the Services of Public Order. There is no specific legal basis for the regulation of private security. The result is that in Austria private security guards can be armed during their work on the street.

**Belgium**
The pluralisation of the police function has also taken place in Belgium. In the years 1990s all kinds of surveillance officers appeared in the Belgian streets. A number of factors has contributed to this. Many citizens were dissatisfied about the way that the police and the government reacted to problems of disorder and crime. An increasing political pressure felt by mainly the social democratic city and municipal politicians to demonstrate their decisiveness. Because the police and the public prosecution agency often neglected the issues of social disorder and petty crime, the MAS-Act (Act Municipal Administrative Sanctions) was introduced to give the municipal government more means to manage these problems themselves. Since 2007 this system can be used effectively by municipal governments, because since that moment in addition to community guards (in Dutch: *gemeenschapswachten*), also community guard-notifiers (in Dutch: *gemeenschapswachten-vaststellers*) have been introduced. The latter category has formal powers to notify an infringement, which can result in an administrative fine. Still there are striking differences in the implementation of the MAS-Act and the use of these municipal enforcement officers, especially between Flanders and Wallonia/Brussels. In the latter regions there are almost no enforcement officers, whereas in Flanders they have acquired a generally accepted and strong position. Finally, in Belgium private security guards are almost absent in the surveillance and enforcement in the public space.

**Canada - Ontario**
In Canada, a large number of organizations and professional groups are responsible for the surveillance in the public space. In some cases private security guards are contracted by the public police and sometimes they deal with problems that were previously defined as belonging to the exclusive domain of the public police. In some cases private companies may hire public police officers for surveillance tasks in for example large shopping malls. The result is that in Canada it may often be difficult to disentangle the meaning of public and private in policing, as for example is the case with surveillance in Business Improvement Areas. As a result, it may be difficult to ascribe the separate forms of responsibility to private and public surveillance officers. The position taken by public wardens and enforcement officers in the other countries, is in Canada largely taken by the private security sector. These private companies also carry out enforcement tasks and have (for Dutch standards) extensive (violent) powers. Illustrative is that the security firm Intelligarde International explicitly presents itself as ‘The law enforcement company’. The number of special constables and by-law officers that carry out surveillance tasks in public, is probably quite small, although that their numbers are increasing because they are cheaper than the regular police officers.

**Comparative analysis**
The developments on plural policing in these four countries are rather complex and prove to be highly diverse. There are large differences between these countries. Even within each of these countries a considerable diversity may occur. In many of the countries multiple categories of
wardens, guards, surveillance workers, community supervisors and enforcement officers may be found.

In the final chapter of this study a comparative analysis is presented of the countries studied. First, the analysis focuses on more or less similar patterns in the countries studied. Secondly, what are the main differences in plural policing between these countries?

**Similarities**

In each of the countries a more or less similar process could be found, that mainly consists of four elements. First, this process is starting at the moment that the (regular) police are not or not sufficiently able to meet the expectation of a visibly presence in public space, of a surveillance and effective enforcement concerning social disorder and petty crime in public space. Secondly, the negative consequences of this 'surveillance and enforcement deficit' are mainly experienced at the local level. Citizens (including shopkeepers and businessmen) and local administrators feel that there is a gap in the (uniformed) surveillance in public space. Thirdly, at the local level it is tried to create solutions for these problems; these solutions are normally found outside regular police work or (in most cases) even outside the regular police organization. The solution is not to strengthen the regular police, but to create new and uniformed non-police professions. The fourth element found in all these countries is that in this way a plural policing complex arose. This means that (1) the idea of one (type of) organization with a monopoly on policing on behalf of the government has been abandoned and that (2) surveillance and enforcement are to a large degree organized and implemented at the local level.

In most cases the rise of this plural policing is not the result of some intentional and pre-established policy plan. Perhaps England & Wales are to a certain degree an exception here. The PCSO's were partly introduced based on a policy of the British national government.

The rise of these new local surveillance workers and enforcement officers in the public space in various countries, is primarily the result of some common social circumstances that can be found in each of these countries. These circumstances are so important that they result in similar answers and strategies, even though the specific context and the concrete 'drivers' differ for each country considerably. Some of the following factors can be found in each of these countries. Since the early 1990s in all these countries public safety and crime have been recognized as serious social problems. Public safety has had a high political priority, even if in an objective sense public safety is relatively not such a big problem (as in Austria). In most countries, public safety keeps its political importance and urgency, even when public safety is considerably improving (as is the case since the early 21st century in both England & Wales and the Netherlands) or other problems become more prominent (such as the economic crisis since 2008). The strategy followed in each of these countries is that local surveillance and enforcement tasks in public space have been increasing for the past two decades.

**Differences**

Important differences may be found between these countries. Five of them are especially relevant here. Firstly, the countries differ in the extent to which the new surveillance and enforcement tasks are privatized. A distinction may be made in two dimensions, namely the privatization of the providers and the privatization of the auspices. With regard to the privatization in this domain, Belgium differs considerably. Unlike the other four countries, in Belgium private surveillance and enforcement in the public space are lacking. In Canada, the privatization of surveillance and enforcement in the public space is most advanced. Here, not only a large private security sector in the public and semipublic space operates, but there is also a privatization of public policing by means of outsourcing police officers.

Secondly, the countries differ in the extent to which the work of the surveillance and enforcement officers is based on a specific and clear formal (legal) framework. In Belgium, such a framework is the most clear. Here the community guards work within the framework of the Act Community Guards. In the case they have a notifying power, the MAS-Act (Municipal Administrative Sanctions) provides the legal framework. Austria and Canada are at the other extreme. Although in Austria the
formal obligation of enforcing local regulations rests completely with the municipal government, no special powers for local enforcement officers can be derived from this legal arrangement. Thirdly, the countries differ in the extent to which there is a strict division between on the one hand the non-police policing officers and in the other hand the regular police. On the one side we find Austria and England & Wales. Austria has a rather strict separation between the work and responsibilities of the police and those of the municipal government (including the Services of Public Order, Services of City Guards and private security guards in public space). At the other hand, in England & Wales there is a relatively high degree of integration of the Police Community Support Officers in the regular police. Fourthly, there are notable differences in the powers of the new surveillance and enforcement officers. This is not only about differences between countries. Also within each of the separate countries, the formal powers may differ considerably between the several categories of new surveillance and enforcement officers in the public space. In some cases enforcement powers are missing completely, in other cases they are available for only specific infringements. The extent to which the non-police enforcement officers are entitled to use means of violence varies strongly, even within individual countries. Finally, there are also important differences in the extent to which there are formal quality requirements of the new non-police policing officers. In Austria there are hardly any quality requirements. The design of the Service of Public Order is seen as the responsibility of the local authorities. In Canada adequate a regulation of special constables and by-law officers is missing. On the other hand, there are countries with relatively extensive requirements that these surveillance and enforcement officers should meet. England & Wales, Belgium and the Netherlands are examples. It is striking that often relatively lower demands are made on the quality (training and selection) of the private security guards that work in (semi-)public space.

Types of supervisors and enforcement officers
Based on these similarities and differences outlined before, six types of non-police surveillance and enforcement officers in public space can be distinguished. The types differ in the extent to which there is a separation between providers and auspices, and to which each of these elements are public or private. This typology shows that in most countries the diversity in the surveillance supervision and enforcement officers in public space is large. The exception is Belgium. This is mainly due to the fact that in this country the private security plays no significant role in the public domain. Moreover, in all countries (except for Belgium) privatization of surveillance and enforcement tasks in the (semi-)public domain can be found. Especially in the two Anglo-Saxon countries, the role of private parties (both in the function of auspices, as provider) has become very important. The Netherlands and Austria take a middle position with regard to this issue.

Safety as public good
Finally, the rise and implementation of the surveillance and enforcement tasks in the public space are analyzed given the notion of security as a public good. Four models are presented that may be relevant in future debate. The debate about security as a public good has strong normative elements. These are related to the fact that surveillance and enforcement in public space are strongly related to central social values. These are far more important than the often mentioned managerial themes of streamlining, economy, efficiency and effectiveness. These social values include the protection of citizens against non-legitimate use of coercion and violence, and values like equality of rights and justice. Four models are used that may present indications for several potential future directions. The four are: (1) integration of the non-police policing officers within the police (2) police as the central coordinator also of these non-police officers, (3) municipal governments as the central actor and coordinator and (4) the development of more market systems and mechanisms also in the surveillance and enforcement tasks. These four models point to different relations between the public and the private. They also refer to different forms of coordination and regulation, not only
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with respect to managerial issues, but also with regard the protection of citizens’ rights and other principles that surveillance and enforcement tasks in public space should meet. These four models or scenarios refer to different potential future directions in this domain. Until now the developments in surveillance and enforcement were often not clearly based upon a vision on the future developments in this field and on a view of how security can meet the standards of a public good. Short-term considerations were often decisive in the developments on this policy domain over the past two decades. A public debate is needed about the future of surveillance and enforcement tasks and how these should their standards. The four models can be considered as scenarios that may give support and structure of a debate about future developments. This debate may concentrate on a couple of key questions. In the final section of the book seven of these key questions are presented.