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CRIMINAL JUSTICE SYSTEMS IN EUROPE AND NORTH AMERICA

Report of the ad hoc Expert Group on a cross-national study of trends in crime and information sources on criminal justice and crime prevention in Europe and North America

Edited by Ken Pease and Kristiina Hukkila

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FOREWORD

This publication contains the result of the analysis undertaken by a HEUNI expert working group of the national responses to the Third United Nations Survey on Crime Trends, Operation of Criminal Justice Systems and Crime Prevention Strategies (1980-1986).

A total of 35 European countries were invited to respond to the Third Survey, an invitation to which 29 had responded at the time when the analysis was undertaken. This was four more than to the Second Survey, although three countries responded to the Second Survey but did not respond to the Third. At the request of the United Nations Secretariat, HEUNI has also incorporated the North American responses (from Canada and the United States) in the analysis. For reasons beyond our control in the preparation of the report, six European countries responding to the Third Survey are not profiled in this report, although data on them is incorporated in the cross-national analysis and in the analysis of the dynamics in criminal justice. They are Austria, the Democratic Republic of Germany, the Federal Republic of Germany, Gibraltar, Greece, and Switzerland. These omissions are greatly regretted. The countries which had not responded to the Third Survey questionnaire at the time of analysis were Albania, Iceland, the Republic of Ireland, Israel, Luxembourg and Romania.

The regional analysis follows the lines of the work on the Second Survey ("Criminal Justice Systems in Europe", HEUNI publication no. 5, Helsinki 1985). It comprises three major parts. The first part is the cross-national analysis of the operation of criminal justice systems in Europe and North America. The second part represents a brief and tentative attempt to look at relationships and trends as the "dynamics" of criminal justice. The third part consists of brief criminal justice profiles of most of the countries which responded to the Third United Nations Survey.

The data contained in this report are based on national responses to the Third United Nations Survey. In some cases, supplementary data have been taken from official statistics and research reports. The national criminal justice profiles have been sent to the relevant national correspondents to the United Nations for comment.

The experts in the working group were Dr. Marie-Daniele Barre (France), Professor Jerzy Jasinski (Poland), Professor Hans-Jurgen Kerner (FRG), Professor Graeme Newman (United States), Dr. Ken Pease (United Kingdom), General Victor Rezvykh (USSR), Professor Alenka Selih (Yugoslavia), Professor Knut Sveri (Sweden), Director Patrik Tornudd (Finland) and Dr. Slawomir Redo (Crime Prevention and Criminal Justice Branch, United Nations Secretariat). The report has been edited by Dr. Ken Pease (University of Manchester, United Kingdom) and Ms. Kristiina Hukkila (HEUNI).

HEUNI wishes to thank the experts warmly for contributing their time and expertise to this analysis. HEUNI also wishes to thank the dedicated members of the United Nations Crime Prevention and Criminal Justice Branch for their assistance and cooperation, and the responding states for the valuable data they have provided.

Helsinki
May 1990

Matti Joutsen
Director

AVANT-PROPOS

La présente publication contient le résultat de l'analyse, entreprise par un groupe d'expert de l'Institut d'Helsinki des Nations Unies, des résponses nationales à la Troisième Enquête des Nations Unies sur les Tendances du Crime, le Fonctionnement des Systèmes de Justice Pénale et les Stratégies de Prévention du Crime (1980-1986).

Sur les 35 pays d'Europe, au total, invités à répondre à la Troisième Enquête, 29 avaient répondu à l'heure où l'analyse était entreprise, soit quatre fois plus que lors de la Deuxième Enquête, bien que trois pays ayant répondu à la Deuxième Enquête n'aient pas répondu à la Troisième. A la demande du Secrétariat des Nations Unies, l'Institut d'Helsinki a également inclus à l'analyse les résponses fournies par l'Amérique du Nord (le Canada et les Etats-Unis). Pour des raisons qui échappent à notre action, dans l'élaboration du Rapport, six pays d'Europe ayant répondu à la Troisième Enquête ne sont pas profilés dans ce rapport, bien que les données les concernant aient été incorporées à l'analyse transnationale et à l'analyse des dynamiques en matière de justice pénale. Il s'agit de l'Autriche, de la République Démocratique d'Allemagne, de la République Fédérale d'Allemagne, de Gibraltar, de la Grèce et de la Suisse. Ces omissions sont fortement déplorées. Les pays qui n'avaient pas répondu au questionnaire de la Troisième Enquête au moment de l'analyse étaient l'Albanie, l'Islande, la République d'Irlande, Israël, le Luxembourg et la Roumanie.

L'analyse régionale suit les axes de travail de la deuxième Enquête (" Les systèmes de justice pénale en Europe ", Publication n° 5 de l'Institut d'Helsinki, Helsinki 1985). Elle comprend trois grandes parties. La première partie est l'analyse transnationale du fonctionnement des systèmes de justice pénale en Europe et en Amérique du Nord. La Deuxième partie représente une courte tentative de voir dans les relations et les tendances "les dynamiques" de la justice pénale. La troisième partie consiste en brefs profils de justice pénale dans la plupart des pays ayant répondu à la Troisième Enquête des Nations Unies.

Les données contenues dans le présent rapport sont basées sur les résponses nationales à la Troisième Enquête des Nations Unies. Dans certains cas, des données supplémentaires ont été prélevées dans les statistiques officielles et les rapports de recherche. Les profils nationaux de justice pénale ont été envoyés aux correspondants nationaux concernés, aux Nations Unies, pour commentaire.

Les experts constituant le groupe de travail étaient les suivants: le Dr. Marie-Danièle Barre (France), le Professeur Jerzy Jasiński (Pologne), le Professeur Hans-Jürgen Kerner (RFA), le Professeur Graeme Newman (Etats-Unis), le Dr. Ken Pease (Grande-Bretagne), le Général Victor Rezvych (URSS), le Professeur Alenka Šelih (Yougoslavie), le Professeur Knut Sveri (Suède), le Directeur Patrik Törnudd (Finlande) et le Dr. Slawomir Redo (Branche de la Prévention du Crime et la Justice Pénale, Secrétariat des Nations Unies). Le rapport a été édité par Dr. Ken Pease (Université de Manchester, Grande-Bretagne) et Mme Kristiina Hukkila (Institut d'Helsinki).

L'Institut d'Helsinki remercie chaleureusement les experts pour leur contribution, vouant leur temps et leur compétence à cette analyse. Les remerciements de l'Institut d'Helsinki vont également aux membres dévoués de la Branche de la Prévention du Crime et de la Justice pénale pour leur concours et leur coopération, ainsi qu'aux Etats qui ont répondu, pour les précieuses données qui ont fournies.

Helsinki
Mai 1990

Matti Joutsen
Directeur

ПРЕДИСЛОВИЕ

Настоящее издание содержит результаты анализа, проведенного рабочей группой экспертов ХЕЮНИ на основе ответов стран на вопросник Третьего обзора ООН по тенденциям преступности, функционированию систем уголовного правосудия и стратегиям предупреждения преступности (1980-1986гг.).

В общей сложности 35 европейским странам было предложено участвовать в Третьем обзоре, из которых 29 прислали свои ответы к моменту проведения анализа. Это в четыре раза больше, чем количество стран, участвовавших во Втором обзоре. При этом три страны из участвовавших во Втором обзоре, не ответили на вопросник Третьего. По просьбе Секретариата ООН ХЕЮНИ также включил в анализ ответы североамериканских стран (Канады и Соединенных Штатов Америки). По не зависящим от нас причинам в настоящем докладе отсутствуют профили систем уголовного правосудия шести государств, участвовавших в Третьем обзоре, хотя данные о них включены в совокупный анализ и в анализ динамики уголовного правосудия. К ним относятся: Австрия, Гермаская Демократическая Республика, Федеративная Республика Германии, Гибралтар, Греция и Швейцария. Мы очень сожалеем в связи с этим. Страны, не приславшие свои ответы на вопросник Третьего обзора к моменту проведения анализа, включают Албанию, Исландию, Республику Ирландию, Израиль, Люксембург и Румынию.

Работа над региональным анализом строилась по тому же принципу, что и в ходе Второго обзора (см. "Системы уголовного правосудия в Европе", серия изданий ХЕЮНИ, 5, Хельсинки, 1985г.). Анализ включает три основные части. Первую часть составляет совокупный анализ функционирования систем уголовного правосудия в Европе и в Северной Америке. Вторая часть представляет собой попытку рассмотреть вкратце взаймосвязи и тенденции

в области уголовного правосудия, иными словами, его динамику. Третья часть содержит краткие профили систем уголовного правосудия большинства стран, приславших свои ответы на Третий обзор ООН.

Включенные в настоящий доклад данные основаны на ответах стран на вопросник Третьего обзора ООН. В некоторых случаях дополнительные данные были взяты из официальных статистических отчетов и научных работ. Профили национальных систем уголовного правосудия были направлены соответствующим нацинальным корреспондентам для внесения замечаний.

В состав рабочей группы вошли следующие эксперты: д-р Мари-Даниел Барре (Франция), профессор Ержи Ясински (Польша), профессор Ганс-Юрген Кернер (ФРГ), профессор Грэм Ньюман (США), д-р Кен Пиз (Великобритания), генерал Виктор Резвых (СССР), профессор Аленка Селих (Югославия), профессор Кнут Свери (Щвеция), профессор Патрик Торнудд (Финляндия) и д-р Славомир Редо (Отделение по предупреждению преступности и уголовному правосудию Секретариата ООН). Доклад отредактировали д-р Кен Пиз (Университет г. Манчестера, Великобритания) и Кристина Хуккила (ХЕЮНИ).

ХЕЮНИ выражает искреннюю благодарность экспертам за то, что они смогли уделить время настоящему анализу и поделиться своим опытом. ХЕЮНИ благодарит сотрудников Отделения по предупреждению преступности и уголовному правосудию за их содействие и сотрудничество, а также участвовавшие в Обзоре государства за ценные сведения, которые были ими представлены.

Хельсинки
Май 1990 года

Матти Йоутсен
Директор ХЕЮНИ

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PART I
CONCLUSIONS AND RECOMMENDATIONS

1. Conclusions and recommendations regarding crime control policy

This report and its conclusions are based primarily upon an analysis of the 31 national reports received from European and North American states, supplemented by other information to which members of the expert group had access. Despite the acknowledged unreliability of recorded crime as an indicator of the amount or seriousness of crime committed, the expert group is confident that the main conclusions would hold true even had additional data on unrecorded crime been available.

The amount of reported crime has continued to increase. A comparison of the results of the First, Second and Third United Nations Surveys, covering the period 1970 through 1986, shows that overall, the volume of recorded crime has increased. The rates of the major crime categories examined have increased in most countries responding, although some crimes in some countries exhibit noteworthy declines. Drug crime shows the most precipitate increase. The only country in the world, not just the region, (among those countries responding to the Survey) which goes against the trend in drug crime is Canada.

The control of crime is increasingly shifting to agencies and mechanisms outside the criminal justice system proper. Although the Survey was not designed to measure the extent to which sanctions are dispensed through administrative or civil law (for example in the case of special offender categories such as civil servants, military personnel, employees, children, the mentally disordered, drug abusers and alcoholics), the available data indicate that this is widely done, and its use is spreading. In some countries and under some circumstances, cases are often terminated by requiring the transgressor to pay a "fee" or "processing charge". Several reasons can be found for the shift of control to agencies and mechanisms outside the criminal justice system. For example, new statutes may give administrative authorities greater powers in the regulation of areas calling for specialist knowledge or close cooperation with other actors, such as in the protection of the environment or the regulation of industry and commerce. The shift is also functional: administrative authorities may be allowed to exercise wider powers than are criminal justice authorities. For

example, in those countries where the criminal law does not recognize corporate responsibility, the use of administrative or corporate law may provide a means of control over offending corporations.

In some circumstances, the use of administrative, civil or other measures may lead to incarceration, but this is not general. The movement away from full criminal justice processing inevitably raises questions about whether due process has been observed in such cases; the criminal justice system is better designed to take the rights of the suspect into consideration than many alternative arrangements. On the other hand, criminal justice is vulnerable to the charge that the state arrogates to itself the role of victim, leaving the real victim marginal to the criminal process. It may be thought that a movement away from criminal justice may be to the crime victim's advantage. However, since administrative authorities do not typically involve the victim more, the trend away from criminal process does not necessarily benefit the victim. Furthermore, the criminal justice process itself in many countries is belatedly recognising the role of the crime victim.

The taking of a final decision on criminal cases is shifting from the courts and other adjudicatory bodies to the agencies responsible for the earlier stages of the criminal justice process, to the prosecutor and the police. Following the increase in the number of offences and offenders with which the courts must deal, all of the countries covered by this report have sought simplified procedures for dealing with many of the minor cases. A number of countries have adopted systems by which the prosecutor or police can effectively settle a case by requiring that the offender pay a fine or compensate for the harm caused. Terminations early in the process are often less well documented than those occurring later. Some early terminations now involve mediation or informal reparation schemes, but the extent to which this occurs is generally limited.

One way of looking at the change is that it represents a recognition of the inter-relatedness of decisions within criminal justice. Convictions have long been the probable outcome of prosecutions, and prosecutions the probable outcome of police action. The dangers attending this involve the presumption of guilt from an early stage, and the growth of "justice without trial". Expedient arrangements which lead to accommodations to save court time may not sit well with considerations of due process.

Alternative means must be sought. The shift in crime control to agencies and mechanisms outside the criminal justice system, and the transfer of adjudicatory powers to the earlier stages of criminal justice, is not necessarily a negative development if this does not place the suspect or the victim in a worse position, or restrict their rights. In particular where juveniles are involved, alternative means of settling the case may well be preferable for the future adjustment of the offender.

There is no clear relationship between criminal justice resources and the problem of crime. It is often argued that the amount of crime would decrease if one were to allocate more resources to the police, enlarge the capacity of prisons, and make other such investments. The data made available to the United Nations by the states do not support such an assumption. It is true that a survey is not the appropriate way to identify causal relationships, and that the quality of data provided on both crime and resources leaves much to be desired. Nevertheless, it could be argued that if there really was a strong and stable relationship between the scope and intensity of the effort of a state to control crime and its success in decreasing crime, such a relationship should be reflected even in this type of survey. It is not the case, for example, that countries with the highest availability and use of non-custodial sentences are also those with the lowest levels of recorded crime.

Observing that no direct relationship is easily identifiable between resources invested in criminal justice and the scale of recorded crime does not mean that those investments have necessarily been made in vain. Research indicates, for example, that increased police patrolling may decrease the fear of crime, even if the actual incidence of crime is not reduced. Similarly, providing services to released prisoners is important from the point of view of the protection of a particularly vulnerable group, even if such humanitarian measures would have no impact on the amount of crime in society. Likewise, the development of victim support is readily justifiable on humanitarian grounds.

Criminal justice is by definition a system where the state acts as proxy for the victim. The unintended consequence of this may be that the victim becomes marginal to the process, with consequent distress and dissatisfaction. Some investment with the intention of reducing this may be seen as requiring little other justification.

There is a need for a clearer analysis of where the actual "problem" of crime lies. It has been suggested that each society has at least three distinguishable crime problems: the incidence of crime; society's investment in crime control and its attendant social costs, including the opportunity costs of expenditure on crime control; and finally the crime problem as depicted by the mass media. These problems follow their own internal dynamics, and may at times grow more, at times less acute. However, they maintain at all times a kind of autonomy in the sense that the impact of developments in one problem sector on the others is marginal or non-existent. Some crime control experts have stressed the need for the separate consideration of the various aspects of the crime problem, although these components are inter-dependent.

The initiation of specific crime control measures can frequently be seen as the outcome of administrative and political processes (as well as to the public pressure referred to above) rather than as considered responses to a perceived crime problem. Similarly, the effects of specific crime control measures may be very modest, as far as their impact on the level of crime is concerned, but may satisfactorily address public and media anxieties. Correspondingly, the risk of an individual citizen falling victim to a crime has very little to do with the efficacy of crime control policies but is rather accounted for by a combination of demographic factors and factors related to the opportunities available, as well as to the general social, political and economic conditions of a society.

There is a need for a more realistic appraisal of the potential of the various crime control options. Recognition of major social determinants of crime, and the network of related crime problems, should not lead to a cynicism, for example about the potential for crime prevention, where some notable successes have been recorded. Rather it is a plea to be as precise as possible in the specification of a crime problem, since different problems invite different solutions, and there is a marked tendency to forgo precise analysis in this emotive area. By clearly indicating those constraints within which effective action is possible, a firm basis is created for meaningful policy initiatives. Many promising avenues have been left unexplored because innovators have inappropriately assumed that particular crime control innovations would bring about swift and dramatic results. Such assumptions are typically ill-founded. A more sensible policy thrust

would be based on the realisation that successful crime control policy is based on a multitude of improvements in small particulars. Such improvements, while often claimed spuriously, can only be soundly based upon proper research designs. The type of survey undertaken by the United Nations is valuable in providing background data and reference material for such research. Such surveys themselves cannot, however, be used to identify successful or unsuccessful policies. In consequence, decision-makers, including criminal justice practitioners, should be encouraged to pursue crime control policies which, with no real risk of aggravating the crime situation, are based on considerations of fair and humane treatment of crime victims and crime perpetrators. At the same time, the public should be kept informed of these policies and their implementation.

The criminal justice system should be submitted to regular review. Since notions of crime and punishment constantly evolve, any crime control policy should be based on a regular review of the meaning, scope and effects on society of crime and responses to it. Traditional crime is just one area of concern. The harm inflicted by the commission of such offences in many cases may not match the suffering caused by the negligence resulting in ecological disasters, dangerous products, ill-conceived technological changes or social arrangements. Despite this, criminal law is rarely called upon to react to such cases, as there are obvious difficulties in allocating responsibility, and these acts cannot effectively be controlled through the limited means available to a national criminal justice system.

The extent of the use of imprisonment should be limited.
The experts noted the many problems connected with the widespread use of incarceration. They agreed that the introduction of non-custodial sentences which are described as "alternatives to custody" is a route fraught with problems. No research evidence has ever been adduced which suggests that an "alternative" has been properly used in a significant majority of the cases in which it has been imposed, in any country properly investigated. The way of reducing imprisonment which may be more attractive is direct, in particular by reducing sentence lengths, rather than by the attempt at substitution by new sentences. However, the direct reduction in the use of custody may well run counter to the pressure (real or assumed) of public opinion regardless of the lack of evidence that there is an inverse and causal relationship between rates of incarceration and rates of crime.

The available data from the states included in this survey shows a total in excess of 1 000 000 adults incarcerated on a given day in 1986, so that around two in every thousand of the adult population in Europe and North America is incarcerated at any one time. Research studies in some countries that an average of 6% or more of males will be incarcerated under sentence at some time in their lives, and that for certain sub-groups of the population, the figures are dramatically higher. Particularly high rates of incarceration apply in the United States. Studies of crime control through incapacitation suggest that the amount of crime prevented is insignificant in relation to the numbers detained, although there may be cases where this does not hold true. Research on criminal careers (the analysis of the prevalence, duration, type and frequency of individuals' criminal activity) offers some promise of an understanding of the consequences of different strategies and tactics of the use of custody.

In the cases where imprisonment is used, the execution of the sentence should emphasise the aim of using the period of incarceration to enhance the prospects of the offender in adapting to life in freedom. The attention of decision-makers should be drawn to a possible redistribution of staff resources if it is determined that such a change would be conducive to such an aim.

Special attention should be paid to limiting the length of pre-trial detention. There is a tension between the demands of due process and speedy justice. In several European countries the greatest increase in the use of custody has occurred in the unsentenced population, and it may be that the aim of speedy justice is currently not being met, to such an extent that some action needs to be taken to remedy the situation. Delays can be the result of prosecution inefficiency or lack of incentive to speed matters to their conclusion. They may also be the result of defence inefficiency or tactics to enable a defendant to spend as much of a sentence as possible in remand conditions. In either case, the problem may be addressed by the limitation of time between arrest and the beginning of trial. For the prosecution, the effect would be a direct one, in that a case would fail if the prosecution were not ready at the appointed time. The effect on the defence's speed of progress would be more indirect, but nonetheless powerful. Given the size of the unsentenced prison population in the countries surveyed, the introduction of some

inducement towards haste may be timely where it does not exist, and may be considered for additional stringency where it does.

2. Conclusions and recommendations regarding statistical issues.

The quality of returns by member states was generally high, although remaining variable. Sometimes there may have been misunderstandings through variation in the use of language, and on occasion through genuine substantive differences.

The instrument used in the Third Survey is a marked improvement on that used in the Second. It is hoped that, by this report and others prepared from Third Survey data, particular comparisons of interest will be singled out and form the basis of more detailed comparison between pairs of countries. The data themselves will be available on computer diskette before the end of 1990. This is much more timely than the preparation of Second Survey data, and may aid the more detailed comparisons advocated.

Given that this Report, others published from the Third Survey, and use of the data by individual countries is potentially extensive, the momentum now achieved by the Survey process may continue to a Fourth Survey, and come increasingly to be accompanied by the insights which national comparisons are uniquely good at providing. Should it do so, one avenue which should be explored is the inclusion of data from a wider set of sources. It has become clear that a good part of data on crime and justice falls outwith the Government ministries formally charged with these topics.

The other area on which data could be substantially improved are on decisions and discretion before sentence. At the most elementary level, data on admissions as well as pre-sentence populations are required. More generally, the processes involved in prosecutorial termination remain obscure, as do the counting rules whereby pre-sentence custody modifies the period of detention after sentence. The human rights importance of decisions on locking up the unconvicted or unsentenced, together with

widespread suspicions of ethnically discriminatory practices in criminal justice, may also require the introduction of an ethnic dimension in the debate.

CONCLUSIONS ET RECOMMANDATIONS

Conclusions et recommandations de politique criminelle. Ce rapport et ses conclusions se fondent essentiellement sur une analyse des 31 rapports nationaux reçus pour l'Europe et l'Amérique du Nord, complétés par d'autres sources d'information auxquelles les membres du groupe d'experts avaient accès. Bien qu'il soit reconnu que le nombre de crimes enregistrés n'est pas un indicateur valable de l'importance ou de la gravité de lacriminalité, le groupe d'experts est certain que ses principales conclusions demeureraient exactes même si des données complémentaires sur la criminalité avaient été disponibles.

La criminalité enregistrée a continué d'augmenter. La comparaison des résultats des Première, Seconde et Troisième enquêtes des Nations Unies couvrant la période 1970 à 1986, montre que dans l'ensemble, le volume de la criminalité enregistrée s'est accru. Pour les principales catégories d'infractions prises en compte, les taux se sont accrus dans la plupart des pays ayant répondu, bien qu'il faille souligner le déclin dans certains pays, de certaines catégories d'infractions. Les infractions à la législation sur les stupéfiants ont eu l'accroissement le plus rapide. Le seul pays, non seulement de la région mais parmi tous les pays ayant répondu à l'enquête, où les infractions à la législation sur les stupéfiants ne connaissent pas la même tendance, est le Canada.

Le contrôle de la criminalité se déplace de plus en plus vers des institutions et des mécanismes extérieurs au système pénal à proprement parler. Bien que l'enquête n'ait pas été conçue pour déterminer dans quelle mesure des sanctions sont prononcées par les voies administrative ou civile (par exemple à l'égard de catégories particulières d'auteurs d'infractions : les fonctionnaires, le personnel militaire, certains employés, les mineurs, les aliénés mentaux, les toxicomanes et les alcooliques), les données disponibles montrent que c'est fréquemment le cas et que l'usage s'en répand. Dans certains pays et dans certaines circonstances, les procédures sont closes par l'obligation faite à l'auteur de l'infraction de payer une somme donnée ou les frais de transaction. On peut invoquer

plusieurs raisons pour expliquer ce glissement de la répression à des institutions et des procédures en dehors du système pénal. Par exemple de nouveaux règlements peuvent donner à des autorités administratives des pouvoirs accrus dans la régulation de domaines qui nécessitent la compétence de spécialistes ou des interactions avec d'autres acteurs comme pour la protection de l'environnement ou les règlementations industrielles et commerciales.

Le glissement est aussi fonctionnel : les autorités administratives peuvent disposer de pouvoirs plus étendus que les autorités pénales. Par exemple dans les pays où la loi ne reconnaît pas la responsabilité pénale de la personne morale, l'utilisation de règlements administratifs peut fournir un moyen de contrôle des entreprises en infraction. Dans certains cas l'exercice des mesures administratives, civiles, ou autres peut même conduire à l'incarcération, mais c'est l'exception. S'éloigner des procédures pénales en tant que telles pose inévitablement la question de savoir si une juste procédure a été observée dans ces cas-là ; le système pénal est mieux conçu que bien d'autres procédures, pour tenir compte des droits de la personne suspectée. Par contre, on peut reprocher au système pénal le fait qu'il attribue à l'état le rôle de victime, reléguant la victime réelle en marge du procès. On pourrait donc penser que s'éloigner du système pénal soit à l'avantage de celle-ci. Cependant les autorités administratives ne sont pas connues pour impliquer davantage les victimes, si bien que cette tendance ne leur est pas nécessairement bénéfique. De plus, dans bien des pays, le système pénal lui-même reconnaît, enfin, le rôle de la victime.

La prise de la décision finale en matière pénale se déplace des tribunaux et autres organes juridictionnels aux agences responsables des étapes antérieures du processus, au ministère public et à la police. Suite à l'accroissement du nombre d'infractions et du nombre des auteurs d'infractions que les tribunaux doivent juger, tous les pays concernés par ce rapport ont cherché des procédures simplifiées pour traiter le contentieux dit de masse. Plusieurs pays ont adopté un sytème selon lequel le ministère public ou la police peuvent effectivement clore une procédure en exigeant le paiement d'une amende ou la compensation du dommage causé. Les clôtures précoces de procédures sont souvent moins bien documentées que celles qui se produisent plus tardivement. Certaines mettent en jeu des modes de transaction ou de réparations informelles, mais ceci n'existe que dans une mesure, en général, limitée. L'une des

façons de voir ce déplacement de pouvoir est de reconnaître l'interdépendance des décisions à l'intérieur du système pénal. Depuis longtemps la reconnaissance de la culpabilité est le résultat probable de la poursuite et la poursuite le produit de l'action policière. Les dangers qui en résultent impliquent la présomption de culpabilité dès le départ et le développement d'une "justice sans jugement". Les arrangements qui aboutissent à des compromis pour permettre aux tribunaux de gagner du temps peuvent ne pas être compatibles avec les exigences d'une juste procédure.

Une diversification des moyens doit être recherchée. Le transfert du contrôle pénal à des agences et des mécanismes extérieurs au système ainsi que, à l'intérieur de celui-ci, le transfert des décisions en amont de l'étape juridictionnelle, ne sont pas nécessairement des évolutions négatives, sauf à placer le suspect ou la victime dans une moins bonne position ou à restreindre leurs droits. En particulier dans le cas de mineurs, d'autres moyens de décider d'un cas peuvent être préférables pour la future insertion sociale de l'auteur de l'infraction. Il n'y a pas de relation claire entre les ressources de la justice pénale et le problème de la criminalité. On a souvent dit que le niveau de la criminalité diminuerait si l'on pouvait allouer plus de ressources à la police, augmenter la capacité des prisons et faire d'autres investissements de ce type. Les données communiquées aux Nations Unies par les différents pays ne confirment pas cette hypothèse. Il est vrai qu'une enquête n'est pas le moyen approprié pour mettre en évidence des relations de causalité et que la qualité des données fournies tant sur la criminalité que sur les budgets laisse beaucoup à désirer. Cependant on pourrait soutenir que si réellement il y avait une relation forte et stable entre l'étendue et l'intensité de l'effort d'un pays pour contrôler la criminalité et son succès pour la faire decroître, une telle relation apparaîtrait même dans ce type d'enquête. Par exemple on ne constate pas que les pays qui ont le plus la possibilité d'utiliser les peines sans emprisonnement et qui l'utilisent le plus, sont aussi ceux qui ont les plus bas niveaux de criminalité enregistrée.

Observer qu'aucune relation directe n'est aisément identifiable entre les ressources investies et le niveau de criminalité enregistrée, ne signifie pas nécessairement que les investissements ont été faits en vain. La recherche montre par exemple, qu' acccroître les patrouilles de police peut faire décroître le sentiment d'insécurité même si en pratique, la fréquence des

infractions ne s'en trouve pas réduite. De même fournir une aide aux prisonniers libérés est important du point de vue de la protection d'un groupe particulièrement vulnérable même si de telles mesures humanitaires n'ont aucun impact sur le volume du crime dans la société. De la même façon le développement de l'aide aux victimes se justifie aisément sur des bases humanitaires.

Le système pénal est par définition un système où l'état se substitue à la victime. Une conséquence invonlontaire peut en être que la victime devienne marginale dans le procès et en conçoive de l'angoisse et de la frustration. Un effort dans le but de réduire ce sentiment ne nécessite pas vraiment d'autre justification.

Une analyse plus claire serait nécessaire pour savoir où réside le vrai "problème" de la criminalité. On a suggéré que chaque société a au moins trois problèmes distincts de criminalité : l'incidence du crime; l'investissement de la société dans le contrôle de la criminalité et les coûts sociaux qui en découlent y compris les coûts d'opportunité de ces dépenses ; et finalement le problème criminel tel qu'il apparaît dans les média. Chacun de ces problèmes a sa propre dynamique interne et peut selon les périodes apparaître plus ou moins aigu. Cependant ils maintiennent à tout moment une certaine autonomie en ce sens que des développements dans l'un de ces secteurs n'ont sur les autres qu'un impact marginal ou nul. Certains experts de politique criminelle ont souligné le besoin de considérer séparément ces différents aspects du problème criminel malgré leurs liens.

La mise en oeuvre de mesures spécifiques de contrôle de la criminalité peut fréquemment être vue comme le résultat de processus administratifs ou politiques (ou de la pression, déjà mentionnée, du public) plutôt que comme des réponses motivées à un problème criminel identifié. De même les effets de mesures spécifiques de contrôle de la criminalité peuvent être très modestes du point de vue de leur impact sur le niveau de la criminalité mais constituer des réponses satisfaisantes aux inquiétudes du public et des media. Pareillement le risque pour un citoyen d'être victime d'un crime, a très peu à voir avec l'efficacité des politiques criminelles mais est plutôt expliqué par la conjonction de facteurs démographiques et de facteurs liés aux opportunités existantes aussi bien qu'à la situation générale, sociale politique et économique.

Une évaluation plus réaliste du potentiel des différentes options de contrôle de la criminalité est nécessaire. La reconnaissance des plus importants déterminants sociaux du crime et l'intrication des problèmes criminels ne devraient pas conduire au cynisme, par exemple à propos du potentiel des politiques de prévention, alors qu'on a enregistré quelques notables succès. C'est plutôt une plaidoirie pour être aussi précis que possible dans la description d'un problème criminel, car des problèmes différents appellent des solutions différentes et il y a une certaine tendance à renoncer à une analyse précise dans ce domaine émotionnel. En indiquant clairement les limites à l'intérieur desquelles une action efficace est possible, on crée une base ferme pour des initiatives significatives de politique criminelle. Bien des directions prometteuses sont restées inexplorées parce que des novateurs ont, sans raison, supposé que certaines initiatives de politique criminelle apporteraient des résultats rapides et spectaculaires. De telles hypothèses sont typiquement mal-fondées. Une avancée plus réaliste serait basée sur l'idée qu'une politique criminelle couronnée de succès est faite d'une multitude d'améliorations sur de petits points. De telles améliorations bien que souvent proclamées à tort ne peuvent être solidement établies qu'à partir de recherches spécifiques. Le type d'enquête entrepris par les Nations Unies est précieux pour fournir des données de cadrage et du matériau de référence pour une telle recherche. Cependant ces enquêtes ne peuvent en elles-mêmes être utilisées pour identifier les politiques couronnées ou non de succès. En conséquence, les décideurs, y compris les praticiens du système pénal devraient être encouragés à poursuivre des politiques pénales qui sans risque réel d'aggraver la situation criminelle sont fondées sur des considérations de traitement humain et équitable des victimes et des délinquants. En même temps le public devrait être tenu informé de ces politiques et de leur mise en oeuvre.

Le système pénal devrait être soumis à un examen régulier. Puisque les notions de crime et de punition évoluent constamment, toute politique criminelle devrait être fondée sur un examen régulier du sens, de l'étendue, et des effets sur la société, du crime et des réponses qui lui sont apportées. La criminalité traditionnelle n'est qu'un aspect de la question. Dans bien des cas les dommages causés par de telles infractions ne peuvent rivaliser avec ceux causés par, la négligence qui engendre des désastres écologiques, les produits dangereux, les changements technologiques ou sociaux mal conçus. En dépit de cela la loi pénale est

rarement invoquée pour réagir à de telles situations car il y a d'évidentes difficultés à en attribuer la responsabilité ; ainsi ces actes ne peuvent effectivement être contrôlés à travers les moyens limités dont dispose un système national de justice pénale.

L'importance du recours à l'emprisonnement devrait être limitée. Les experts ont souligné les nombreux problèmes liés à l'usage très répandu de l'incarcération. Ils sont tombés d'accord sur le fait que l'introduction de peines sans emprisonnement, décrites comme "substitutives à l'emprisonnement", est un chemin semé d'embûches. On n'a jamais pu invoquer, dans aucun pays dûment enquêté, de résultats de recherche qui suggèrent qu'une peine ait été effectivemnt utilisée comme "substitution", dans une proportion significative des cas où elle a été prononcée. Une façon plus convaincante de réduire l'emprisonnement serait directe, en particulier par la diminution de la durée des peines plutôt que par la tentative d'y substituer de nouvelles peines. Cependant la réduction directe du recours à l'emprisonnement peut aller à l'encontre de la pression (réelle ou supposée) de l'opinion publique malgré l'absence de preuve qu'il y ait une relation causale inverse entre les taux d'incarcération et les taux de criminalité. Les données disponibles des pays compris dans cette enquête montrent que, un jour donné en 1986, un total de plus d' 1 000 000 d'adultes étaient incarcérés. Dans certains pays la recherche a montré qu'en moyenne 6 % ou plus des hommes seront incarcérés comme condamnés à un moment quelquonque de leur vie et que pour certains sous-groupes de la population ces chiffres sont dramatiquement plus élevés. On enregistre aux Etats Unis des taux particulièrement forts d'incarcération. Les études sur le rôle incapacitant de la peine suggèrent que la quantité de crimes évités est insignifiante en relation avec le nombre de détenus, bien qu'il puisse y avoir des cas où ceci ne soit pas vrai. La recherche sur les carrières criminelles (l'analyse de la probabilité, de la durée, du type et de la fréquence des activités criminelles des individus) offre quelque espoir de compréhension des conséquences des différentes stratégies et tactiques concernant l'usage de l'emprisonnement.

Dans les cas où l'emprisonnement est utilisé, on devrait insister dans l'exécution de la peine sur l'utilisation de cette période d'incarcération pour augmenter les perspectives d'adaptation du détenu à la vie en liberté. On devrait attirer l'attention des décideurs sur une éventuelle redistribution des ressources en personnel si cela peut contribuer à atteindre un tel but.

Une attention particulière devrait être portée à la limitation de la durée de détention avant jugement. Il y a opposition entre la demande d'un procès équitable et celle d'une justice rapide. Dans plusieurs pays européens l'accroissement le plus important de la population carcérale a concerné les détenus avant jugement et peut-être que l'objectif d'une justice rapide est à l'heure actuelle en cause à tel point qu'il serait nécessaire de porter remède à cette situation. Les retards peuvent résulter de l'inefficacité de l'accusation ou du manque de stimulation pour hâter la conclusion des affaires. Ils peuvent aussi résulter de l'inefficacité de la défense ou de tactiques pour permettre à l'accusé de passer l'essentiel de son temps de peine dans les conditions de la détention provisoire. Dans les deux cas on peut résoudre le problème en limitant la durée qui s'écoule entre l'arrestation et la date du début du procès. Du point de vue de l'accusation, l'effet serait direct en ce sens que l'affaire serait close si l'accusation n'était pas prête en temps voulu. L'effet sur les délais de progression de l'affaire du point de vue de la défense serait plus indirect mais néanmoins certain. Etant donnée l'importance de la population détenue avant jugement dans les pays enquêtés, un certain encouragement à diminuer les délais pourrait être opportunément introduit là où cela n'existe pas et renforcé là où cela existe déjà.

Conclusions et recommandations en matière statistique

La qualité des réponses des états membres, bien que variable, a généralement été bonne. Il a pu y avoir quelquefois, des malentendus dus à des problèmes de langage et parfois à d'authentiques différences sur le fond. Le document utilisé pour la Troisième enquête est en nette amélioration par rapport à celui de la Deuxième enquête. On peut espérer qu'à travers ce rapport et les autres issus des données de la Troisième enquête, d'intéressants rapprochements spécifiques apparaîtront et formeront la base de comparaison plus détaillée entre deux pays. Les données elles-mêmes seront disponibles sur disquette avant fin 1990. La plus grande commodité d'accès aux données, que pour la Deuxième enquête peut permettre les comparaisons plus détaillées préconisées plus haut. Etant donné ce Rapport, les autres publiés à partir de la Troisième enquête, et l'utilisation potentiellement large des données par les différents pays, l'élan maintenant acquis par l'enquête peut se poursuivre vers une Quatrième

enquête qui serait accompagnée, de plus en plus, par les éclairages que seules les comparaisons entre deux pays peuvent apporter. Dans ce cas l'une des voies à explorer serait l'introduction de données de sources plus diversifiées. Il est maintenant clair qu'une bonne partie des données sur la criminalité et la justice échappent aux départements ministériels qui en sont formellement chargés.

Un autre domaine pour lequel les données pourraient être substantiellement améliorées concerne les décisions et l'orientation des affaires avant jugement. Au niveau le plus élémentaire des données sur les entrées en prison et sur la population en détention provisoire sont nécessaires. Plus généralement les processus de classement au niveau des poursuites demeurent obscurs ainsi que la façon dont la détention provisoire modifie la durée de détention après condamnation. L'importance, du point de vue des droits de l'homme, des décisions de détention prises à l'égard de personnes présumées innocentes, ainsi que les soupçons largement répandus de pratiques discriminatoires du système pénal en raison de l'origine ethnique des individus, peut aussi nécessiter l'introduction de cette dimension ethnique dans le débat.

1. Выводы и рекомендации относительно политики борьбы с преступностью

Настоящий доклад и его выводы основаны прежде всего на анализе 31 ответа, которые были получены от европейских и североамериканских государств. Анализ был дополнен другой информацией, которой располагали члены группы экспертов. Несмотря на общепризнанную ненадежность цифры зарегистрированных преступлений как показателя всей совокупности или опасности совершенных преступлений, члены группы экспертов все же уверены, что сделанные ими основные выводы были бы верны и в том случае, если бы имелись дополнительные данные о незарегистрированных преступлениях.

Количество зарегистрированных преступлений продолжало увеличиваться. Сравнительный анализ результатов Первого, Второго и Третьего обзоров ООН, охвативших период времени с 1970 по 1986гг., показывает, что в своей совокупности объем зарегистрированной преступности увеличился. В большинстве участвовавших в Обзоре стран уровень преступности по основным видам преступлений, включенным в анализ, повысился, несмотря на то, что в некоторых странах по отдельным видам преступлений отмечается падение уровня преступности, что заслуживает внимания. Самый стремительный количественный рост наблюдается в категории преступлений, связанных с наркотиками. Единственной страной в мире, а не только в регионе (из стран, участвовавших в Обзоре), в которой отмечается противоположная тенденция в отношении преступлений, связанных с наркотиками, является Канада.

Функция борьбы с преступностью во всё большей степени передается к органам и механизмам, которые не входят непосредственно в систему уголовного правосудия. Несмотря на то, что целью Обзора не являлось определение

масштабов применения санкций по административному или гражданскому законодательствам (например, в случае таких специальных категорий правонарушителей, как государственные должностные лица, военнослужащие; служащие; дети; лица с умственными и психическими нарушениями; лица, злоупотребляющие наркотиками и алкоголем), имеющиеся данные показывают, что такое применение довольно распространено, и к тому же расширяется. В некоторых странах и при определенных обстоятельствах рассмотрение дел часто заканчивается решением о наложении на правонарушителя штрафа или об оплате им судебных издержек. Смещение функции борьбы с преступностью к тем органам и механизмам, которые не входят в систему уголовного правосудия, может иметь несколько причин. Например, новые нормативные акты могут предоставить административным органам большие полномочия регулировании деятельности в тех областях, которые требуют специальных знаний или тесного сотрудничества с другими участниками процесса. Это касается, например, таких областей, как охрана окружающей среды или регулирование деятельности в промышленности и в торговле. Такое смещение также является функциональным: административным органам может быть разрешено иметь более широкие полномочия по сравнению с органами системы уголовного правосудия. Например, в тех странах, где уголовное право не признает корпоративной ответственности, применение административного или корпоративного законодательства может обеспечивать механизмы контроля за корпорациями, совершившими противоправные действия.

В некоторых случаях применение административных, гражданских или иных мер может привести к лишению выновных лиц свободы, но это наблюдается не везде. Отход от принципа полного разбирательства дела в рамках системы уголовного правосудия неизбежно рождает вопрос: соблюдена ли установленная законом процедура в ходе разбирательства таких дел; ведь система уго-

ловного правосудия более приспособлена для обеспечения соблюдения прав подозреваемых, чем многие другие альтернативные структуры. С другой стороны, уголовное правосудие более уязвимо для обвинений в том, что государство необоснованно приписывает себе роль жертвы в то время, как настоящая жертва имеет лишь касательное отношение к уголовному процессу. Можно было бы думать, что сдвиг в сторону от системы уголовного правосудия выгоден жертве преступления. Но, поскольку административные органы, как правило, не уделяют жертве большего внимания, тенденция к отклонению от уголовного процесса не является в обязательном порядке выгодной для жертвы. К тому же процесс уголовного правосудия во многих странах во всё большей степени учитывает роль жертвы преступления.

Функция принятия окончательного решения по уголовным делам переходит от судов и других судебных органов к тем органам, которые несут ответственность за более ранные стадии процесса уголовного правосудия, - к органам, осуществляющим судебное преследование и к полиции. В результате увеличения количества нарушений и правонарушителей, которые должны проходить по судам, все охваченные настоящим докладом страны стремились установить упрощенную процедуру рассмотрения незначительных дел. В ряде стран установлены системы, при которых органы, осуществляющие судебное преследование, или полиция могут эффективно урегулировать дело, обязывая правонарушителя заплатить штраф или выплатить компесацию за причиненный им ущерб. Закрытие дела на ранней стадии процесса зачастую хуже документировано, чем на более поздней. В некоторых случаях закрытие дела на ранных стадиях сейчас предусматривает варианты с участием посредников или с неофициальной репарацией, однако масштабы их сегоднящнего применения, в целом, ограничены.

Можно посмотреть на такое изменение и с другой стороны:

оно представляет собой признание взаимосвязанности решений в рамках уголовного правосудия. Длительное время предполагаемым итогом судебного преследования было осуждение виновного, а судебное преследование - предполагаемым результатом деятельности полиции. Подстерегающие на этом пути опасности связаны с презумпцией виновности на ранней стадии процесса и с расширением "правосудия без суда". Скорые меры, ведущие к выгодной экономии времени судов, не всегда правильно соотносятся с необходимостью соблюдения установленной законом процедуры.

Следует вести поиск альтернативных мер. Передача функции борьбы с преступностью органам и механизмам, не входящим в систему уголовного правосудия; перемещение судебных полномочий на более ранней стадии процесса уголовного правосудия необязательно являются отрицательным фактом, если это не ставит подозреваемого или жертву в худшее положение с точки зрения их прав. В частности, если речь идет о несовершеннолетних правонарушителях, альтернативные меры урегулирования дела могут быть намного предпочтительнее для перспектив будущей судьбы правонарушителя.

Между ресурсами системы уголовного правосудия и проблемой преступности не существует прямой взяймосвязи. Зачастую утверждается, что объем преступности снизится, если выделять больше ресурсов полиции, укреплять потенциал тюрем, осуществлять другие аналогичные капиталовложения. Данные, представленные государствами в ООН, не дают основания так считать. Конечно, обзоры не являются подходящим методом для выявления причинно-следственной связи, и, безусловно, качество данных как по состоянию преступности, так и по наличию ресурсов, оставляет желать лучшего. Однако, можно было бы доказать, что если бы действительно существовала тесная и прочная зависимость между масштабами и интенсивностью действий государства по борьбе с

преступностью и его результатами в снижении преступности, то такая зависимость нашла бы свое отражение даже в таком обзоре. В действительности же, например, не является верным предположение, что страны, в которых имеется большой выбор мер наказания, не связанных с лишением свободы, и они находят широкое применение, должны иметь самые низкие уровни зарегистрированной преступности.

Вывод о том, что между ресурсами, выделяемыми системе уголовного правосудия, и масштабами зарегистрированной преступности, вовсе не означает, что эти капиталовложения были сделаны напрасно. Иследования показывают, например, что расширение полицейского патрулирования может уменьшить страх населения перед преступностью, даже если фактический объем преступности при этом не снижается. Подобным же образом, служба оказания содействия освободившимся из мест заключения лицам имеет большое значение с точки зрения защиты одной из основных групп риска, даже если такие меры гуманитарного характера могут и не влиять на объем преступности в обществе. С другой стороны, совершенствование системы оказания поддержки жертве полностью оправдано по причинам гуманитарного характера.

Уголовное правосудие по определению есть система, при которой государство выступает в качестве представителя жертвы. Непроизвольным следствием этого может быть то, что жертва начинает иметь лишь поверхностное отношение к уголовному процессу, что соответственно вызывает ее страдания и недовольство. Некоторые действия с целью изменить это положение могут, в основном, быть объяснены только с данной точки зрения.

Существует необходимость в более точном анализе для определения места действительной проблемы преступности. Было сделано предположение о том, что в каждом обществе

имеется, по крайней мере, три отчетливо различимых проблемы преступности: объем преступности; финансирование обществом борьбы с преступностью и сопутствующих социальных затрат, включая возможный индекс расходов на борьбу с преступностью; и, наконец, проблема преступности в ее отображении средствами массовой информации. Эти проблемы обладают собственной внутренней динамикой и временами могут усугубиться или смягчиться. Однако в любое время они сохраняют некоторую автономию в том смысле, что влияние процессов развития в одной области проблем на другие является поверхностным или вообще отсутствует. Некоторые специалисты по проблемам борьбы с преступностью подчеркивают необходимость отдельного рассмотрения различных аспектов проблемы преступности, хотя эти компоненты и являются взаимозависимыми.

Внедрение конкретных мер борьбы с преступностью зачастую может рассматриваться как результат административных и политических процессов (а также и общественного давления, о котором речь шла выше), а не как взвешенная реакция на осознаваемую проблему преступности. Подобным образом эффект конкретных мер борьбы с преступностью может быть весьма скромным с точки зрения воздействия на уровень преступности, но может успокаивающим образом подействовать на общественность и средства массовой информации. Соответственно, вероятность для отдельного гражданина стать жертвой преступления мало связана с эффективностью политики борьбы с преступностью, а определяется скорее сочетанием демографических факторов и факторов, связанных с имеющимися возможностями, так же как и с общими социальными, политическими и экономическими условиями общества.

Существует необходимость в более реалистичной оценке потенциала различных моделей борьбы с преступностью.

Признание основных социальных факторов преступности и переплетение взаимосвязанных проблем преступности не должны приводить, например, к скептицизму в оценке потенциала для предупреждения преступности там, где отмечены заметные успехи. Скорее, следует быть как можно более точным в определении проблемы преступности, поскольку различные проблемы предполагают различные решения, и отмечается явная тенденция воздерживаться от точного анализа в этой эмоциальной сфере. Эти четко обозначенные ограничения, в рамках которых возможно эффективное действие, формируют твердую основу для оправданных инициатив в политике. Многие обещающие подходы остались не изученными до конца, поскольку сторонники нововведений необоснованно считали, что отдельные новации в борьбе с преступностью дадут быстрые и решительные результаты. Такие предположения обычно имеют слабое обоснование. Более разумное движение в политике будет основываться на осознании того, что успешная политика борьбы с преступностью базируется на множестве улучшений незначительного характера. Такие улучшения, хотя их часто считают лишь видимостью, могут иметь прочную основу лишь в случае выработки тщательной схемы исследований. Настоящий тип обзора, предпринятого ООН, и ценен тем, что он представляет базовые данные и справочный материал для таких исследований. Сами по себе эти обзоры не могут, однако, использоваться для определения успеха или неудачи политики. Следовательно, административные работники, включая и практических работников системы уголовного правосудия, должны поощряться на проведение такой политики в области борьбы с преступностью, которая при отсутствии реальной опасности усугубления состояния преступности основывается на соображениях справедливого и гуманного обращения с жертвами преступлений и с правонарушителями. В то же самое время общественность слудет постоянно информировать о такой политике и о ходе ее осуществления.

Необходимо регулярно производить переоценку системы уголовного правосудия. Поскольку понятия преступности и наказания постоянно развиваются, любая политика борьбы с преступностью должна основываться на регулярной оценке значения, объема и влияния преступности на общество и мер по борьбе с ней. Традиционная преступность является лишь одной из областей, вызывающих озабоченность. Ущерб, наносимый в результате совершения таких преступлений, во многих случаях не может идти в сравнение со страданиями, причиной которых является халатность, приводящая к экологическим катастрофам, появлению опасных для жизни продуктов, непродуманным технологическим изменениям или социальным проектам. Несмотря на это, уголовное право редко привлекается для реагирования на такие деяния, поскольку существуют очевидные трудности в определении ответственности, и такие действия невозможно эффективно контролировать посредством ограниченных мер, имеющихся в распоряжении национальных систем уголовного правосудия.

Степень использования тюремного заключения должна быть ограничена. Эксперты отметили множество проблем, связанных с широко распространенным использованием тюремного заключения. Они согласились, что введение мер наказания, не связанных с лишением свободы, которые названы альтернативами тюремному заключению, сопряжено с трудностями. Ни в одной стране, где проводились исследования, еще не были приведены научные доказательства, которые бы предполагали, что в значительном большинстве случаев применения альтернативных мер эти альтернативы были использованы надлежащим образом. Более привлекательным является путь непосредственного сокращения тюремного заключения, в частности, за счет уменьшения срока отбывания наказания, а не попытки замены тюремного заключения новыми видами наказаний. Однако, непосредственное сокращение использования

тюремного заключения может войти в противоречие с давлением (реальным или предполагаемым) со стороны общественного мнения, независимо от отсутствия доказательств, что существует обратная причинно-следственная связь между уровнем использования тюремного заключения и уровнем преступности.

Имеющиеся данные, полученные от стран и включенные в настоящий Обзор, показывают, что в один из дней 1986 года в заключении находилось в общей сложности более 1 000 000 взрослых; таким образом, почти два человека из каждой тысячи взрослого населения Европы и Северной Америки в какой-то определенный момент времени одновременно находятся в заключении. Проведенные в некоторых странах научные исследования показывают, что в среднем шесть или более процентов мужского населения в определенное время своей жизни будет отбывать тюремное наказание по решению суда и что для определенных групп населения эти цифры значительно выше. Особенно высокий уровень использования тюремного заключения наблюдается в Соединенных Штатах. Исследования зависимости борьбы с преступностью от степени использования лишения свободы свидетельствуют, что количество предотвращенных преступлений является незначительными в сравнении с числом заключенных, хотя и могут быть случаи, когда это положение не является справедливым. Исследования динамики преступной деятельности на примере отдельных лиц (анализ распространенности, продолжительности, вида и частотности преступной деятельности индивидуумов) дают некоторые обнадёживающие результаты с точки зрения понимания последствий различных стратегических и тактических способов использования тюремного заключения.

В случаях, когда используется тюремное заключение, процесс исполнения наказания должен подчеркивать цель применения срока лишения свободы как увеличения

перспектив для правонарушителя адаптироваться к жизни на свободе. Внимание ответственных административных работников должно быть привлечено к возможному перераспределению штатных ресурсов, если установлено, что такое изменение будет способствовать такой цели.

Особое внимание следует обратить на ограничение продолжительности предварительного заключения. Существуют трения между требованиями установленной законом процедуры и быстротечностью правосудия. В некоторых европейских странах самое большое увеличение числа заключенных под стражу лиц отмечается для неосужденных, и вполне вероятно, что цели ускоренного правосудия в настоящее время не выполняются в такой степени, что необходимы меры по исправлению создавшегося положения. Затяжки могут быть результатом неэффективности судебного преследования или отсутствия стимулов ускорять завершение дела. Они могут быть также результатом неэффективности защиты или тактики, позволяющей обвиняемым отбывать максимально возможную часть наказания в условиях предварительного заключения. В любом случае проблема может быть разрешена за счет ограничения времени между арестом и началом судебного разбирательства. Для стороны судебного преследования эффект от этого будет непосредственным, в том смысле, что дело потерпит неудачу, если обвинение не готово к назначенному сроку. Более косвенным, но не менее значимым, эффект от этого будет для ускорения действий защиты. Принимая во внимание количество неосужденных лиц, находящихся в заключении в странах, охваченных настоящим образом, введение некоторых стимулирующих ускорение процесса мотивов может быть своевременным там, где этого нет, и может рассматриваться как основа для дальнейшего их развития там, где это существует.

2. Выводы и рекомендации относительно вопросов статистики

Качество ответов от государств-членов в целом было высокое, хотя и оставалось неодинаковым. Иногда было возможно недопонимание из-за различий в использовании языка, а иногда и в связи с изначальными смысловыми различиями.

Методика Третьего обзора заметно более совершенно по сравнению с использованной во Втором обзоре. Есть надежда, что настоящий доклад и другие данные, подготовленные на материале Третьего обзора, станут основой проведения более частного сравнительного анализа по представляющим интерес параметрам, а также явятся базой для более детальных сравнений по парам государств. Сами данные до конца 1990 года будут переведены на компьютерную дискетку. Это намного быстрее, чем подготовка данных Второго обзора, и будут способствовать проведению более детальных сравнений, о которых шла речь.

С учетом того, что настоящий доклад, другие материалы, опубликованные на базе Третьего обзора, и данные, используемые отдельными странами, содержат значительный объем информации, достигнутые в ходе проведения Обзора результаты могут найти свое продолжение в Четвертом обзоре и во все большей степени влекут за собой углубленные исследования, хорошей возможностью для которых является сравнительный анализ по странам. Если это так, то одним из подходов, который следовало бы изучить, явится получение данных от более широкого круга источников. Стало очевидным, что большая часть данных по преступности и правосудию поступает от правительственных министерств, на которые официально возложена ответственность за эти вопросы.

Другой областью, в которой можно значительно расширить данные, является область выбора решений до вынесения приговора. На самом элементарном уровне необходимы данные о задержанных лицах, а также о содержащихся в предварительном заключении. В более общем плане остаются неясными процессы, связанные с прекращением преследования, так же как и с существующим в странах порядком, при котором срок содержания под стражей после вынесения приговора меняется в зависимости от сроков предварительного заключения. Важность соблюдения прав человека при вынесении решения о заключении под стражу неосужденных лиц или лиц, в отношении которых не вынесен приговор, вместе с широко распространенными подозрениями в дискриминационной практике уголовного правосудия на этнической почве могут также потребовать включения в рассмотрение этнических аспектов.

PART II
THE RESULTS OF THE CROSS-NATIONAL ANALYSIS

1. Introduction

The purpose of the report

This report seeks to describe, primarily on the basis of the information provided by the respondent countries to the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (1980-1986), the criminal justice systems of the countries of Europe and North America. The central aim is twofold:

a. to describe the main characteristics of each such system, and
b. to comment upon extant statistical information in an attempt to analyse how the systems work.

For these purposes, the data in the Third United Nations Survey have been supplemented by information obtained from national correspondents and other sources.

In spite of the considerable cooperation and discussion concerning crime policy in the region covered, there was, until HEUNI's publication of similar analyses from the Second United Nations Survey, no attempt to prepare a descriptive, cross-national study covering Europe and North America as a whole. Several justifications have been offered for this neglect. The main objection to such an undertaking seems to have been that, for historical, cultural, political and economic reasons, national systems are so different that no comparisons can safely be made. By its very existence, it will be clear that those involved in the preparation of this report do not fully accept the position that national diversity in criminal justice precludes sensible comparison. We do believe that the information which becomes available from such comparison may prove important for the countries compared, in providing them with a greater understanding of how criminal justice functions elsewhere. They may thereby obtain insights about which countries might merit closer study to inform possible changes in their own systems.

Such a view, however, does not underestimate the difficulties involved in cross-national studies. The statistical aspect of the comparisons in particular raises many issues, not least because most available statistics were gathered for purposes other than comparison. Some countries do not gather statistical information on all variables of interest. Definitions of crime and justice procedures vary between countries and over time within a country. A partial remedy for these problems lies in the improvement of statistics and the strengthening of routine national and international cooperation.

For the moment, it must be recognised that the data presented are partial and imperfect. National legislators and administrators finding data herein which are of interest should regard that as the justification for closer enquiry into experience elsewhere, rather than as the end of a search. HEUNI stands ready to forward enquiries about particular features of national experience to the appropriate expert or authority in the country concerned.

The present report extends its area of coverage to include North America as well as Europe.

Criminal justice systems

All responding countries have formally constituted agencies with specified and recognisable functions in each step of the process. The functions and their associated decisions may be classified as follows:

Policing: this function includes the responsibility to detect, respond to and record appropriate events as crimes, and to take steps to clear up events so recorded. This typically entails finding those presumed responsible and bringing them before the appropriate authority. It may also involve a final disposition of cases in agreed categories.

Prosecution: this function includes the responsibility of determining whether the case against a presumed offender is to be pursued, and if so, to bring the case before the appropriate tribunal.

Adjudication: this function involves the assessment of the strength of a case and the consequent action to be taken in relation to perpetrator (primarily) and victim (secondarily).

Correction: this function incorporates all actions taken as a consequence of the adjudicatory decision.

For a realistic understanding of the criminal justice systems of Europe and North America, it should be noted that the functions distinguished above do not necessarily correspond to particular agencies which discharge them. The policing function, for example, may be carried out, inter alia, by tax and customs authorities, traffic wardens and the private citizen. The prosecutorial function may also be open to the private citizen or to an official other than a designated prosecutor. In North America especially, mediation between victim and offender, or restitution to the victim by the offender, may be substituted for prosecution. As for the adjudicatory function, this may be performed by courts of law, the police, child welfare boards, or by prosecutors. The adjudicatory function may or may not end in a sentence of the court, even when guilt is established by a court. Finally, the correctional function may be handled by officers of the court (for instance in the collection of monetary penalties in many countries), prison or probation staff, health professionals (typically for mentally disordered offenders) or by welfare agencies, statutory or voluntary, as in the enforcement of work on community service orders. Sometimes the impact of an adjudication is modified, as by parole from prison. In many cases where the offender is a juvenile or mentally disordered, the extent of a penalty is determined by relevant professionals dealing with the case. Whether this is regarded as the exercise of an adjudicatory function or the working out of an adjudicatory function exercised elsewhere is a matter of taste.

In most countries, less serious traffic violations are handled by the police, combining at least the first three of the functions distinguished. Less serious criminal offences of other kinds may in many countries be conclusively dealt with by a police officer or a prosecutor without reference to a court.

It follows from the above that a comparative study must concern itself more with the decision process and the functions exercised by different

agencies rather than with the labels by which the agencies are known. As becomes clear below, the elicitation of comparable information from different countries is rendered extremely difficult by the compexity of the relationships between functions and agencies in the different countries. Since criminal justice systems differ in respect of how functions are exercised by different authorities, and since each authority typically presents its own statistical report, it is important for cross-national studies to use alternative sources in gathering information about the main functions. If in one country the power to decide some (usually trivial) cases has been delegated to the police, and another country brings such cases before a court, any comparison of court statistics will be misleading.

The further one gets into the criminal justice process, the less daunting in principle are the difficulties of comparison. Thus, statistics on sentences pronounced by courts are *relatively* reliable, especially in cases involving criminal code offences. In contrast, statistics on the great mass of decisions made by other authorities, especially for offences which lie outside the main criminal code, are much less reliable. Even at what may be regarded as the core of criminal justice, when the admission to prison is decided, problems remain. Specifically, does an offender remanded in custody before sentence and then sentenced to imprisonment count as one admission (to reflect the continuing custody) or two (to reflect the two categories under which the offender has been imprisoned)? How is intermittent custody dealt with? In brief, no stage in the process is secure against statistical problems.

Some issues involved in cross-national studies

Legal Definitions

Countries differ in the behaviours which are identified as lying within the appropriate scope of criminal law. Thus, comparisons between countries in the total volume of recorded crime are useful only as an indication of the volume of events that a nation chooses to process in a particular way, and not as an indication of the level of lawlessness obtaining in such a nation. Even use of crime counts as indicators of the choice to process is limited, since some countries divide crimes into

offences and violations, and the latter group is sometimes not included in the official statistics, or is not included in the same way.

Difficulties persist in the comparison of events given the same legal label in different countries. Assault provides a convenient instance. In some countries, assaults are only recorded when bodily injury results from an attack. In others, the attack itself is sufficient. Crime recording practices also vary in how they deal with attempts. Even if legal definitions do incorporate the same criteria for inclusion of events as crimes, they may be interpreted differently from time to time and from place to place. They may even be subject to influences quite outside criminal justice. For instance, the offence of completed homicide is typically defined on the assumption that the victim dies within a particular time after an attack. The improvement of medical facilities may serve to delay the fatal consequences beyond the specified time, thus "downgrading" the offence to, for example, aggravated assault.

Discretion

Countries differ in the discretionary power allowed to authorities. Some adhere to the principle of legality, giving little discretionary power to police and prosecution, while others adhere to the principle of opportunity, according to which these authorities are obliged to investigate and prosecute primarily when such action is judged to be in the best interests of society. A modified principle of legality underpins practice in some countries, according to which an act is not treated as an offence if it constitutes only a minor danger to society. Furthermore, in some countries the legality principle is qualified by the rule that certain offences are subject to prosecution only when initiated by a private citizen. Each of the above principles, interpreted differently by different countries, leads to differences in the counting of crimes and punishments. In addition to these formal rules of procedure, one may be confident that the practice of discretion will develop informally in order to ease the burdens of police and court work. Much research evidence of this exists.

The victim's interest in reporting

Great variations between countries can be expected in the proportion of crimes which are reported to the police. The reporting of some crimes, generally (but sometimes inappropriately) termed victimless, depends on the police or other authorities detecting their occurrence. Drug crime and consensual sexual offences are major examples. For other crimes, many factors influence the decision to report. Research in several countries has suggested that the perceived seriousness of a crime is the major determinant of the decision to report it. Sometimes there is an obligation to report in order to receive insurance compensation, as for vehicle theft in most countries covered in this report.

The unit of count - incidents, offences and offenders

The unit of analysis changes from the *event* to its classification as an *offence* and finally to its classification on the basis of the *person* as one proceeds through the criminal justice system. Conventions differ in how this happens. For instance, in some countries, the event is only recorded if the person responsible is apprehended. This is true in particular in relation to less serious offences. Court convenience often dictates that the translation of events into charges and convictions is very complex. This may be because of the dropping of contested charges, the change of others, and the bundling of many charges into a single conviction. The consequence is that the statistics on conviction and sentencing are prone to particular difficulties of comparison. These issues are touched upon in the section below on the flow of cases.

Conclusion

Quantitative cross-national study of criminality is in its infancy and is beset by many difficulties. There is room for imaginative approaches to comparison, and even at the present state of knowledge, there is enough to alert nations about the experience of other nations which is of interest and may influence policy. What is clearly inappropriate is the use of statistics of crime and punishment as a kind of moral barometer, a use which has been nourished and consolidated over many years. Since the beginning of the present century there has been an awareness

that this use of statistics is not valid. Statistics record, very imperfectly, the type and number of certain kinds of conflict among citizens, and between citizens and the state. This recognition is fundamental to the proper use and development of enterprises such as the one reported on here.

The flow of cases

The flow of cases through the criminal justice process is depicted in the following diagram. The column on the left represents the stages in the process. The column on the right provides examples of reasons for events or people leaving the system at that stage.

Diagram 1. The flow of cases/people through criminal justice

Stage of Process	Reason for Case/Person not Advancing further in Process
Offence committed	Event never observed. Event observed but not construed as crime. Event observed and construed as crime but not reported
Offence reported	Offence not recorded.
Offence recorded	Offence not cleared.
Offence cleared	Case not appropriately dealt with: e.g. offender below age of responsibility; offender dead or dying; victim unwilling to proceed; informal resolution preferred.
Adjudication	Finding of innocence or adjudication waived.
Corrections	

Many, almost certainly most, offences never enter the criminal justice system or are channelled out of it at an early stage.

The selection and working definition of crime used in this report

The Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (1980-1986), which formed the basis for this report, included questions on the following crime categories: total recorded crime, intentional homicide, non-intentional homicide, assault, drug crimes, rape, kidnapping, robbery, theft, fraud and embezzlement, and bribery and corruption.

The data on total recorded crime reflected, inter alia, the following differences between the statistics of the states responding:

- some states included traffic offences, drunken driving and/or petty offences, while others did not;

- the differences in the discretionary powers of public prosecutors are great (cf. the discussion of the legality and opportunity principles above, and the private charge or prosecution by way of motion below).

For these reasons and for those mentioned in the preceding section, this report will not concentrate on the figures for total recorded crime. It will also refrain from comment on the data regarding several other offences. These offences are listed below, with an indication of the reasons for the decision to refrain from their analysis:

- *non-intentional homicide* (some countries include traffic offences resulting in death, while some do not);
- *drug crime* (the differences in legislation are considerable);
- *kidnapping* (there were few answers in this category, and those that there were suggested there to be few instances of the offence. Some countries noted that this offence is not recorded separately in police statistics. Some countries included illegal deprivation of liberty under this heading);
- *fraud and embezzlement* (some countries include tax fraud, cheque fraud and obtaining money unders false pretences under this category, while others included only commercial fraud);
- *bribery and corruption* (the differences in the definition of these offences are considerable).

After exclusion of the above, the following offences remained to form the basis of cross-national comparison: **intentional homicide, assault, robbery** and **theft.** The Survey included working definitions of the offences, in order to increase the comparability of the responses. Some national respondents supplied offence definitions used in their country, but this information was often unavailable. There were also, no doubt, statistical difficulties introduced by translation from the language in which the questionnaire was issued. Listed below are some of the issues raised by the definition of the four offences which are to be analysesd later in this report.

Intentional homicide, according to the definition given in the Survey, refers to death deliberately inflicted on another person, including infants. The definition of intent, and the application on a case-by-case basis of that definition, is likely to vary from country to country. Moreover, it is not clear whether individual countries include as intentional homicide deaths which accompany robbery, rape or assault.

Assault refers to a physical attack against the body of another person. It includes battery, but excludes indecent assault. In the analysis of the data, it was noted that some countries do not consider an assault as such unless it results in physical injuries or maltreatment. The procedure also differs, in that in some countries an assault may only be punishable on the filing of a private charge. This difference in definition may be one explanation for the observation that the number of recorded assaults per 100 000 varies between countries with similar cultural backgrounds.

Robbery refers to the taking away of property from a person, overcoming resistance by force or the threat of force. Some states classify robberies resulting in death as intentional homicides while others classify them as robberies. Furthermore, some countries include extortion as robbery, while others classify it as theft.

Theft refers to the taking of property without the owner's consent other than by force or the threat of force. It subsumes burglary of domestic or commercial premises. It includes theft of motor vehicles and both simple and aggravated theft as defined by the relevant national criminal law. Shop theft and minor thefts may or may not be included. Nation-

al respondents were asked to specify which was the case for their own return.

In short, the report provides a modest and partial account of changes and national differences in recorded crime.

Addressing problems of analysis

While it is true that even today many criminological research reports purported to analyze crime rates and sanctions in various countries are based on a incomplete understanding of the type of sources of errors mentioned above, the situation is not altogether hopeless. There are three basic strategies for surmounting the difficulties outlined above. Firstly, the analysis can *selectively* concentrate on those few areas where the prospects for meaningful analysis are particularly favourable. It may, for example, not always make sense to analyze the total number of offences or the total number of sanctions in various countries, but analysis of the number of bank robberies or the number of incarcerated people at a given time may produce more meaningful results.

When comparing figures on reported crime, one serious source of error is the variation in the way the lower limit of the crime category is drawn in practice. Within each crime category there are usually many less serious offences and fewer serious offences. Therefore it is important to try to ascertain how the lower limit has been defined. In the United Nations Survey check questions have been included in the questionnaire. These are designed to make it possible to ascertain whether or not, for example, the concept of "theft" includes petty shoplifting.

Another strategy is to *reformulate the terms of reference* of the research task. In many cases it may be advisable to avoid comparisons of single categories of offences or single categories of sanctions altogether and instead concentrate on larger entities, such as the internal flow of cases in the criminal justice system. The logic of this approach is that fewer sources of error adhere to, e.g. the ratio of prosecutions to convictions than to the number of prosecutions and convictions as such. This assumption does not necessarily hold true for all such cross-national comparison of structural features.

The most basic counter-strategy is, however, the one of *supplementing statistical information with other sources of information*. As outlined in the following sections, information on recorded crime can be checked against the information supplied through other statistical series. (The classical example is the comparison of homicide figures with the body-count of mortality statistics.) The most powerful tool for checking the validity of figures dealing with crimes against individual victims is the victim survey.

The first regular victimisation surveys were carried out in the United States during the 1960s. Several European countries, including the Federal Republic of Germany, France, Poland and Yugoslavia later carried out victimisation surveys of regions within their countries. The first study of self-reported victimisation carried out in Europe using a nationwide sample was conducted in Finland in 1970. In the 1980s regular national victimization surveys have become an integral part of the official system for monitoring crime. Such regular studies are now carried out in, among other countries, Australia, Canada, England and Wales, Finland, France, the Netherlands, Norway, Scotland and Sweden. Additionally, local surveys within many countries are carried out to provide a source of information on local crime which is independent of official agencies.

In 1982 an OECD working group proposed the establishment of uniform assessment instruments to ensure comparability between national victimisation surveys. A multi-national survey based on a standard questionnaire was carried out in fifteen countries in 1989. The results of this survey have been published during 1990.[1]

Victimization surveys provide a valuable supplement to information available through statistics of recorded crime and other similar official records of offences against individual victims. Offences committed against institutions and business enterprises, children, vagrants and homeless people are difficult to investigate by this method. One important finding of victimisation surveys has been that in a number of

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[1] Jan J.M. van Dijk, Pat Mayhew and Martin Killias: Experiences of Crime Across the World. Key Findings of the 1989 International Crime Survey, Kluwer (Deventer and Boston), 1990.

important crime categories, most offences are not reported to the authorities. The most important factor determining the propensity to report is the perceived severity of the offence. Another major use of victimisation surveys lies in their assessment of crime trend information yielded by official statistics. For example, the number of assaults reported to the Finnish police increased 32% from 1980 to 1986. National victimisation surveys indicate, however, that the true risk of becoming a victim of assault remained constant or declined over the period. The discrepancy between the figures almost certainly reflects an increased tendency to report assaultive crime to the police over the period. There are many similar instances where trends in recorded crime reflect factors other than trends in the experience of crime victimisation. Given the public perception of crime through the media, and the use of official statistics as the basis for criminal justice policy, the function of the victimisation survey as a check on official data trends is a crucial one. The victimisation survey also offers a firmer grasp of the realities underlying national differences in crime victimisation experience.

The data used in this report

The questionnaire used in the Third United Nations Survey was sent out by the United Nations Secretariat to all Member States. HEUNI received copies of all European and North American responses. The report is based on the returned questionnaires of the following countries: Austria, Belgium, Bulgaria, Byelorussian SSR, Canada, Cyprus, Czechoslovakia, Denmark, England and Wales, the Federal Republic of Germany, Finland, France, the German Democratic Republic, Gibraltar, Greece, Hungary, Italy, Malta, the Netherlands, Northern Ireland, Norway, Poland, Portugal, Scotland, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United States of America, and Yugoslavia.

The questionnaires differ widely as to their completeness. No questionnaire contains answers to all the questions asked. Most countries do, for example, provide offence specific information on the number of recorded offences, on the number of sentenced people, the total number of prisoners and police officers. On the other hand, only a few coun-

tries were able to produce information such as the age and sex specific breakdown of prisoners sentenced for specific offences. A closer look at the figures, in some instances, reveals inconsistencies which cannot be explained on the basis of the rather meagre background information supplied by the completed questionnaires.

This report has no ambitions to attempt a comprehensive analysis of the information supplied by the European and North American part of the Third United Nations Survey. The authors have concentrated on a few issues, where a tentative analysis appears to promise leads for further investigation. The results must be interpreted bearing in mind the reservations made above and in the following sections.

2. Reporting

General comments

The official statistics on recorded offences and violations reported to law enforcement agencies are frequently regarded and used as an indicator of the actual amount of violations of these categories of offences committed in regions of the country and throughout the country over a specific period. However, a large proportion of all offences and administrative transgressions are not reported to the law enforcement agencies. It is almost certainly true to say that most behaviour which could be classified as crime never comes to official notice. Comparative studies of unreported crime carried out in the Federal Republic of Germany in 1975 and in 1986 illustrate this. They showed that the ratios of the numbers of reported to unreported (hidden) offences was 1:7 for simply larcenies, and 1:6 for offences against the person. Offences which do not come to official notice are referred to as hidden or latent crime (from the Latin word "latentis" - hidden, invisible).

Crimes are especially likely to remain hidden when somebody's personal or property interests are not directly involved or when they are infringed only slightly. North American work appears to suggest that offence triviality is the greatest single reason for not reporting a crime suffered. Another reason for not reporting, which is easily underestimated, is the fact that the victim remains unaware that he or she has been a crime victim. Defrauding the customers of restaurants and shops is a type of offence which is frequently latent since most victims remain unaware that they have been victimized. This unawareness may be more subtle. The school child who has been struck by an adult or older child may not regard that behaviour as criminal.

One category of crime is known as victimless crime, in which a behaviour is consensual but illegal. Exceptionally low levels of under-age sex and all illegal drug use are reported to the police.

Another reason for not reporting crime is the victim's own vulnerability under official scrutiny. Theft and fraud committed against people who for various reasons do not want to resort to the help of the police and other law enforcement agencies come into this category. Thus such offences as theft, robbery and extortion of property and money from persons who acquired them through crime (theft, embezzlement, drug trafficking, usury) generally remain unreported. In such cases the victims refrain from reporting such crimes from fear of attracting the attention of law enforcement agencies or other offenders. For the same reason nonreporting is also typical of crimes committed against those without a permanent place of residence, drug addicts and traffickers, prostitutes, profiteers and others on the margins of society. Victims under the influence of alcohol or narcotics at the time of the offence also have a lower tendency to report the offence.

Apart from offence gravity, the social marginality of crime victims and the need to know that the crime has taken place and that one is a victim, there remain two noteworthy circumstances in which it is likely that a crime will not be reported. The first concerns crimes committed in and against businesses. This group of offences include embezzlements. In such cases the administration and the owners of property who do not wish to undermine the prestige of the business frequently apply for aid not from the police but from private investigative agencies or maintain their own security services. Thus according to the results of an interview of 388 subscribers of the magazine "Security" which took place in the United States in April 1987, it was ascertained that over 30% of managers of corporations do not report to the police the theft of loads and goods, bribery and fraud; 40% do not report forgery of credit cards and insurance policies; 50% do not report thefts committed by the employees of the firm or computer crimes, employee drug addiction, and less than 1% of respondents told the interviewers that they reported every violation to the police.

Finally, a number of offences against the person and private property typically evade official attention, such as assault and rape. The reason for not reporting these cases may be due to the fear of secondary victimisation by the agents of criminal justice themselves, by unsympathetic interrogation of rape victims, for instance. Violent crimes

committed against young people and domestic violence are seldom reported.

The reporting of crime to the authorities is a process which has been the focus of much research. Even so, the implications of the process are not widely understood. Until a crime is reported, it remains subject to the definitions that the parties involved attach to it. Should they choose to define the incident as non-criminal, and not to report it, it will remain a private matter. On the other hand, should one of the parties involved choose to define certain behaviour or a certain situation as criminal, and report it to the authorities accordingly, this makes the matter public. In effect, the reporting of the crime *creates the social reality of crime*. The fact that someone has defined something as a crime, and reported it to the authorities as such, feeds two processes. The case itself will become the "property" of the authorities, subject primarily to their definitions, and not to the definitions of the persons involved. Further, the case will form part of the mosaic known as "reported crime", which in turn determines the image that most of us have of crime.

Reporting by the public

The best and sometimes the only source of information on the fact, circumstances and consequences of an offence, is its victim. An unwitnessed assault is a good example of this. It may therefore be thought that the survey of random samples of the population, capturing thereby a sample of victims of both reported and unreported crime, will provide a more accurate view of crime victimisations. Indeed victimisation surveys do provide a useful complement to official statistics of recorded crime, as has been noted above. Their limitations have also been noted. Since attempts at crime control should be based on the knowledge of the real state, dynamics, characteristics and trends in crime it is necessary to carry out joint, mutually complementary analysis of the official statistics, the information received from other sources (for example, from hospitals and clinics about the reception of people with penetrating wounds or other bodily injuries), research findings from victimization and other studies.

The most decisive factor in reporting crimes by the public to the above mentioned bodies is the gravity of the offence. The probability of reporting increases with the seriousness of the offence. Thus very serious offences against the person such as armed attack or assault which involves serious or permanent injury to the victim are rarely left unreported, unless the victim dies and becomes an official statistic as a missing person. At the same time the results of the systematic victim surveys carried out in Finland, Sweden and the United Kingdom indicate not only this dependence but also the fact that even in the case of serious offences the rate of public-initiated reporting of crimes to the law enforcement agencies does not reach 100%. As yet we can not obtaint the exhaustive answer to the question of why this happens. Obviously the social and property status of the victim, his or her way of life and personal characteristics (especially in connection with the offences which previously were latent but later for some reason were reported by the victim to the law enforcement agencies) should be subjected to more thorough study. Women, elderly people and inhabitants of large cities are more prone to report an offence. At the same time these categories of inhabitants do not present a homogeneous group and the above-average tendency of each group to report offences is explained by its own reasons. As a hypothesis the tendency of the first two categories can be explained by the lack of other means of social defence for them and by their law-abiding way of life. The tendency of the third category can perhaps be explained by their social status and the greater proximity of the police and other law enforcement agencies to the public in large cities in comparison with sparsely-populated rural areas. Only research can provide an answer to this question.

Crime control is being entrusted to an increasing degree to private security guards and other organized, but non-official, groups. Generally, the activities of such bodies are closely supervised by the authorities, and these bodies do not have any official regulatory, much less adjudicatory powers. However, the general impression is that they report to the authorities only a small proportion of the offences which come to their notice.

Reports from authorities

This section will deal with reports from authorities to law enforcement authorities. It should also be noted that some authorities deal with crime on their own. This is in particular the case with tax and customs authorities, which in most countries have their own administrative machinery for dealing with offences. Only the more serious offences (such as the smuggling of narcotics) are reported to the law enforcement authorities. Reports of offences against the property of governmental organizations and enterprises as well as against private firms usually are submitted to the law enforcement agencies by their owners, management and supervisory bodies, taxation authorities, and insurance organizations. The total amount of recorded criminality in this sphere is thus determined by the effectiveness of the internal and external control in the organization, by whether or not the offences are uncovered.

In order to obtain a relatively accurate picture of crime, a comparative analysis of data received from various sources is needed. Statistics of crime do not always appear as crime statistics, and other data sources should be used as appropriate. This is especially true of offences pertaining to white collar crime and its related phenomenon (occupational crime). These include property thefts committed within the framework of one's occupation, forgery in reports and financial accounts, and so on; information about these come to the police, directly to the court, the prosecutor's office, tax and insurance authorities, the commissions of legislative bodies and so on. For instance, the very high rate of claims on travel insurance when travel is for holiday rather than for business suggests a high level of insurance fraud in the holiday insurance business. The process referred to - of getting information from a range of imperfect sources (whose imperfections are likely to be different) in order to obtain a better understanding of a phenomenon is sometimes known as triangulation. As regards traffic crimes, for example, one source complementing crime data might be accident statistics; concerning housebreaking, the statistics of insurance companies and judicial bodies; concerning homicides and assaults one could compare figures on causes of death or a number of persons on whom serious injury was inflicted as given in national health statistics as well as in the statistics of the World Health Organization (cause-of-death-statistics); drug use and

supply can be roughly estimated from the time course of street prices of a drug.

Some criminologists prefer to use the method of scaling up from victim surveys and other sources. The basis of this method is the division of offences into groups depending on the degree to which they tend to remain latent and the determination for each group of the multiplier appropriate to convert officially recorded crimes into actual crime rates. The lower the rate of report, the higher the multiplier.

Factors affecting reporting

The above contains a warning against using only the official statistics on recorded crime as an indicator of the amount of crime committed. It would, however, be erroneous to view figures on recorded crime merely as incomplete and lame indicators of the amount of crime. Their analysis, comparison by region and period and so on, enable us on the basis of a large number of the studied facts to draw conclusions about some of the presenting problems of crime and responses to it.

In spite of the fact that the resources of the criminal justice system are limited and must in the first instance be directed towards the most serious offences, it must also concern itself with latent crime. This is important both from the perspective of crime prevention and from strengthening the social defence of the population generally. This is most true when crimes which are regarded as serious by the victim remain unreported.

3. Recording

The link between reporting and recording

In the previous section, the reporting of crime to official agencies was discussed. However, it would be a mistake to suppose that *recording* of crime necessarily reflects its *report*. Some categories of crime are recorded by official agencies (primarily but not exclusively the police) without having been reported to them. Most drug, economic and consensual sex crimes fall into this category, as well as some others. Such crimes require direct intervention by official agents to come to notice. This has an implication both for the numbers of crimes which find their way to official notice, and to the clearance rate which is claimed by police forces. This is because such crimes are cleared in the very act of detection. The attention police devote to actions connected with prostitution, illegal drug use and occupational crime (to take three numerically important instances) is thus a partial determinant of their overall clearance rate as well as of the profile of crimes committed which appears in official statistics.

It is also not the case that crimes are recorded in the same terms as would be suggested by how they are reported. This is a consequence of how crimes are defined and how those definitions are used. For an instance of the definitional issue, in all three "sweeps" of the British national crime survey (the "British Crime Survey") the number of offences of theft in a dwelling *recorded* is substantially greater than the number *reported*. The probable explanation for this lies in the legal definitions of theft in a dwelling and domestic burglary. Entry as a trespasser is required for the second of these offences. In the first, the crime is committed by someone who has a right to be where he or she was. Thus, if a householder reports an event to the police as a burglary, but the police officer believes that the offender was probably a member of the victim's family, then the event reported as a burglary will be recorded as theft in a dwelling.

There are other circumstances within the criminal justice process which would lead to an event being recorded in terms other than were evident at the point of report. Notable amongst these is the distinction between intentional and unintentional homicide, where the classification of the crime is subject to the final verdict reached. Here the general tendency is for the crime initially recorded to reflect the most serious possible interpretation of events, and for it to be downgraded in the subsequent process. As for the recording of crimes on the basis of utility to the police, sociologists of the police have identified a set of "resource charges", necessitating a crime being recorded while not necessarily representing the situation accurately. For instance, a situation involving threatening behaviour may be resolved by recording an offence of possessing an offensive weapon, even where the weapon was not relevant to the event itself. Somewhat similarly, if a prisoner resists arrest and there is a struggle in which injury is caused to both offender and police officer, it may be expedient for the police officer to record an assault against the police, lest the event should later be characterized as an assault by the police. Thus, the recording of events as crimes often represents a defensible expedient used by officers in an attempt to avoid trouble and maintain the peace. The classification of offences may be changed at court, by charge negotiation.

The role of discretion

Apart from differences between offence recorded and event experienced such as are instanced above, there is also the fundamental question of the discretion which is given to individual officers in their recording practices. Different countries follow quite different policies as to how far an individual police officer may decide whether an incident should be treated as a crime (for instance the distinction between assault on a spouse and a domestic dispute), or defined as a crime but treated unofficially, or officially defined as a crime but not be recorded as such unless a criminal is convicted for it. This last procedure precludes huge numbers of less serious crimes from ever appearing in official statistics. There is also the device of value-related requirements to record. For instance, there is in England and Wales the requirement to record criminal damage in excess of one hundred pounds value, but discretion as to whether to record it for lower values of loss.

Even within a unitary criminal justice system, discretion may lead to wide local variations in crime patterns. For instance, research in England by David Farrington and Lizanne Dowds showed that the huge and longstanding differences between recorded crime rates in three areas of the Midlands of England could be almost entirely explained by differences in police procedure. In essence, the less filling out of forms required when recording a series of crimes, the greater the likelihood that they are recorded as multiple crimes rather than as a single event. This is very closely related to the issues of counting rules, on which conventions differ. For example, in most European countries someone who steals a car will also be guilty of driving without valid insurance, and very often also without a valid licence. If there are any passengers in the car, in many countries also they may be criminally liable. To take another example, where a group of men enter a house and rape its occupant as knifepoint, in England they may be charged with aggravated burglary or rape or both, with the relationship between the events only evident later in the process when the judge makes sentences concurrent or consecutive. In a contrasting case, someone guilty of fraud or embezzlement over a long period may only face one charge, ostensibly because of the complexity of the necessary investigations. Sexual offenders against children may also face only a single charge, because of the presumed effect upon child victims called to give evidence. The effect of counting rules thus depends on the offence category.

A particular problem occurs for recording practice where an event can be dealt with by criminal proceedings instigated by official agencies or by individuals. In Poland, for example, assault causing slight bodily injury is subject to private prosecution and is generally not included in "offences known to the police". In the case of Yugoslavia, all traffic crimes are excluded from police statistics. They may appear later in court statistics if criminal prosecution is successfully completed. White-collar crimes, political and military crimes are also instances where the relevant regulatory body may investigate a crime, but negotiate (e.g. for payment of due taxes, agreement to resign) with the offender. Obviously such cases are not to be found in statistics of crime recorded, although voluminous records may exist in the offices of regulatory agencies.

The "clearance rate"

Of all the issues surrounding the recording of crime, the one practical concern which should be referred to directly is the measurement of police "success" by reference to crime clearance rate. For the reasons noted in this section and for other reasons connected with public willingness to report crime and police expedients to clear crime other than by its detection, the clearance rate cannot be used as an indicator of police success.

Problems of recording are not confined to the counting of crimes. The recording issues as they relate to the remainder of the criminal justice process will be dealt with at the appropriate point in the following sections.

Table 1 represents the incidence of reported crime in 1986 (known crimes in 1986 per 100 000 population) in European and North American countries making a return to the Third United Nations Survey.

It should be emphasized that no direct comparisons should be made between the countries on the basis of Table 1, or of any of the other tables in this report. In particular, the differences in the definition of offences and in the classification of offences for statistical purposes preclude comparisons. This can readily be seen by referring to the most glaring anomalies noted in Table 1, such as the low amount and rate of assaults in Portugal, or the high rate of homicide in the Netherlands. The high number of recorded robberies in Spain -- 514 705 -- would suggest that the figure includes other property offences, in particular theft.

Table 1. Selected offences recorded by the police.
Absolute numbers and number per 100 000 population. 1986

	intentional homicide		assault		theft		robbery	
	N	rate	N	rate	N	rate	N	rate
Austria	182	2	30461	401	179560a	2363	1157	15
Bulgaria	313	3	n.a.		13688a	156	587	7
Canada	525	2	156655a	627	1292006a	5168	23268	93
Cyprus	8	1	795a	114	1894a	271	8	1
Czechoslovakia	131	1	9794a	65	n.a.		1309	9
Denmark	298	6	6708a	134	407678a	8154	1812	36
FRG	2728	5	55852	110	1647658	2746	28581	48
Finland	143	3	16707a	348	124641a	2597	1584	33
France	2413	4	36549	66	2041268	3711	50740	92
German DR	112	1	9842	59	50038	301	768	5
Greece	153	2	5507ab	61	33843a	374	315b	4
Hungary	456	4	8555a	86	89969a	900	1607	15
Italy	2483	4	16084	29	986013a	1761	24734	44
Malta	6	2	97a	24	4306	1077	46	12
Netherlands	1693	12	17795	127	819308a	5852	10250	73
Norway	37	1	5304a	129	124074a	3026	604	15
Poland	538	2	20153a	55	234630a	634	6014	16
Portugal	475	5	100	1	31816	318	3259	33
Spain	858	2	10123	27	n.a.		(514705)c	
Switzerland	136	2	3259a	50	188721	2903	1282	20
Turkey	4353d	9	44251d	92	29222d	61	1674d	4
USSR	14848	5	29096	10	555376	198	45510	16
United Kingdom								
-England & Wales	820	2	122937a	246	2893996a	5788	30020	60
-N.Ireland	85	5	3051a	191	50040a	3128	2204	138
-Scotland	65	1	6243a	122	311949	6117	4101	80
United States	20610	9	834320	343	11695700a	4813	542780	223
Yugoslavia	1274e		15586e		133429e		1197e	

a includes minor offencers
b includes negligent offences
c presumably includes thefts
d number of persons convicted in court for offence
e number of persons suspected of offence

4. Known suspects

Definition of "suspect"

Successful police investigation leads to the identification of a person (or persons) suspected of perpetrating the offence (or offences) in question. As already noted in the preceding section, for some types of offence, such as assault on a police officer, prostitution and tax evasion, the perpetrator becomes known to the investigating authorities at the time at which the offence itself becomes known. In many other cases, a suspect emerges either from investigation and search, or by obtaining information from the victims of or witnesses to the offence, or by the investigative skills of, or other means available to, the police.

The important question is how much evidence has to be collected against a person to warrant his or her categorization as suspect. Intuitively, it could be said that much less evidence is required for placing a person under suspicion than for a conviction (establishment of guilt) or charge (assertion of a prima facie case to answer), but how much less? In the statutes in force in different countries the answer to this question, if given at all, is given in general terms only. The answer is specified when the police and other investigative authorities perform their duties.

The definition of suspect raises a number of complex issues. Although in simple criminal cases there are usually no special problems in the identification of a suspect, in complicated investigations it may be the result of a long process. Having been informed of the commission of an offence, the police may start by compiling a list of potential suspects; this list may expand or contract during the course of the investigation. Some potential suspects may not even know of their inclusion on such a list. Some others may be interrogated as witnesses or as people who could provide the police with information on the circumstances of, or persons involved in, an offence. Only a few of these people will be formally notified that a preliminary investigation is being carried out against them. The form of this notification and the authority issuing it

differs from country to country. Only those declared formally to be suspects are assigned the penal and procedural status of "suspect". In criminal statistics, people who can not be prosecuted because of legal constraints (e.g. children and insane people) are treated as known suspects if the police are satisfied that they committed the offence.

From the statistical point of view, it should therefore be noted that the data on known suspects range from

(1) all suspects known to the police (e.g. the Federal Republic of Germany, Finland and Poland)

(2) those questioned by the police as suspects (e.g. the Netherlands), to

(3) those actually arrested by the police (e.g. Cyprus, Malta).

Delimiting the category of "suspect" also involves legal problems. The category may in some countries embrace only those who *could* be convicted, and eventually subjected to a sentence or court order. In other countries it also embraces those considered by the law to be *dolo incapax*, i.e. those who cannot be charged or held responsible for their actions. The largest group in such a category of possible suspects comprises those under an age limit. Other categories include people unfit to plead because of insanity and those shielded by diplomatic immunity from prosecution. The above problem is resolved in a variety of ways in the different states, and this in consequence affects the scope and meaning of data on suspects included in national police statistics.

Yet another problem exists, which is revealed in the statistics provided by some countries. The problem is related to the number of different investigative authorities, of which only some (par excellence the police) collect data on suspects. This may occasionally result in the recording of smaller numbers of suspected than of accused persons (as in Bulgaria and Northern Ireland), or even than of persons convicted (as in Austria and in Bulgaria for assaults). This apparent anomaly may by explicable in terms of the possibility conferred by law upon victims to initiate criminal proceedings by pressing charges and prosecuting privately. In these cases, the investigating and prosecuting authorities may be bypassed entirely.

The statistical unit

With the identification of suspects, the possibility arises of two separate sets of statistics, one on the number of offences and one on the number of persons suspected of an offence. The importance of the data on suspects lies, on the one hand, in their use as the basis for the computation of clearance rates and, on the other hand, in their use in forming an initial pool of data on persons moving through the consecutive stages of criminal proceedings to the decisions of appropriate authorities at the culmination of the process.

The above difficult issues may explain at least in part why data on suspects are not collected in a number of countries (Belgium, Denmark, England and Wales, Scotland and Switzerland). There may also be a civil rights element: it may be argued that the number of persons should not be counted before those so counted have any wrongdoing formally attributed to them.

The handling of suspects as a human rights issue

How a criminal justice system handles suspects is a strong indicator of how it respects due process and human rights. This is particularly important in the treatment of suspects placed in pre-trial custody. Because this stage is so important, one might assume that respondents to the Third United Nations Survey could supply extensive data on how their system functions and, for example, on the number of persons held in pre-trial custody. This was not the case. For almost all the countries responding to the Third United Nations Survey, the only data available on the handling of suspects were the number of persons held in prison and classified as remand prisoners on a given date. It is an anomaly that we know so little about the operation of the criminal justice system at a stage where the interest in due process and human rights is so great.

The main practical reason for this situation is that many authorities are charged with the handling of suspects: the police, the prosecutors, the courts and, in respect of remand prisoners, the prison system. None of

the responding countries have apparently been able to develop a system of transactional statistics that would allow the authorities (or an outside observer) the possibility of obtaining an overview of how many suspects are being dealt with by all the authorities in question, and how they are being dealt with.

5. Handling Suspects and Cases before Trial

Introduction

Between the moment a specific person is suspected of a crime and until a court (or another empowered authority) adjudicates on his or her guilt, many decisions may be made. These decisions may be categorized into two types. One type aims to prepare the case for court trial, the other to dispose of the case against the suspect without having recourse to a criminal court. These decisions differ as to their content from one country to another, depending especially upon how the legislation handles such problems as juvenile delinquency and administrative offences, and upon the extent and type of discretion which the police and prosecution may exercise. If juvenile delinquency is characterized as a "social" rather than a crime problem, and special welfare authorities exist to handle such cases (as, for instance, in the Nordic countries), the decisions reached may differ from those reached if the cases are handled by criminal courts for juveniles (as in the Federal Republic of Germany or England). Further, if a large proportion of less serious offences (especially traffic offences) are selected for handling by administrative authorities (as with "Ordnungswidrigkeiten" in the Federal Republic of Germany) the situation will differ from that in other countries where no such distinction between offence types is made. As for the discretionary power of police forces in different countries, this may influence the statistics because in some countries the police may have the right to drop cases which in other countries are formally processed and recorded.

Among the decisions which have as their primary aim the preparation of a case for trial, some are vital in that they may infringe the rights of freedom and privacy. Of especial importance are arrest and pre-trial

detention. In every European and North American country the police have the right to apprehend and take into custody a person

a) whom they suspect of having committed a serious crime;
b) who is caught while committing an offence (in which event, if the offence is of a certain level of seriousness, in most countries any citizen may effect an arrest); or
c) if certain other circumstances are present (e.g. when the suspect is unable to identify him or herself to the satisfaction of the police officer).

Within this general common structure, there are significant differences between the countries in respect of how and by whom the different decisions are made as well as for how long a person may be kept in custody.

The use of pre-trial detention

After having been brought to a police station and questioned, a person may be discharged. Even if formally charged, he or she may be set free (with or without conditions). If taken into custody, the person concerned must be placed before a court of law within a certain time, usually 24 hours or "the day after the arrest" (as in the Federal Republic of Germany, Denmark and Norway). In other countries the time may be much longer (as in Sweden and Finland where it is three to five days). According to the European Convention on Human Rights (Art. 5.3) the suspect shall "promptly" be placed before a court of law which will decide whether there are sufficient reasons for detention before trial. The Swedish Government interprets "promptly" to be a maximum period of four days, which probably is the maximum acceptable to the Court of Human Rights in Strasbourg. In the decision process more than one authority may be involved, such as the police apprehending ("arresting") the suspect, the prosecutor or the investigative judge deciding the question of preliminary custody, and the court deciding the issue of pre-trial detention.

The number of people being incarcerated and the length of time suspects are kept locked up before trial takes place or charges are dropped varies greatly as between European and North American coun-

tries. Most countries have no upper limit to the time a suspect may be kept incarcerated, and the time for which some suspects are held in pre-trial detention may be very long. The Federal Republic of Germany is an exception to this. According to section 121 of the Code of Criminal Procedure (STPO), pre-trial detention is restricted to six months. Only when special circumstances present themselves can this be challenged. Scotland provides another exception, where a case must come to trial within 110 days.

Comparability of data on pre-trial detention

In general, remanding in custody raises a number of issues of direct relevance to cross-national analysis. Among them are the legal grounds for remand and how these are used in practice, the use of remand in comparison to the number of suspects and the use of other measures (e.g. bail, confiscation of passports, and arguably electronic tagging) and restrictions as to the permissible maximum length of remand. The fact that the suspect has been in custody on remand may also increase the likelihood that he or she will be given a custodial sentence, and the longer the period of pre-trial detention the greater the possibility that the prison sentences meted out will be no longer than the time already spent in detention. This may also lead to artifactual differences in the prison statistics insofar as time spent in detention before trial (particularly in police cells) are often not included in prison statistics. There are, in addition, problems peculiar to how "status" offenders, especially children and young offenders under the age of 18, are handled.

Unfortunately, there is in all European and North American countries a lack of more detailed information concerning the way in which suspects are handled before trial. The Third United Nations Survey does include some important figures showing the proportion of prisoners who are on remand. Similar figures have been published routinely since 1984 by the Council of Europe in its *Prison Information Bulletin*. The Third Survey figures are presented as Table 2. As can be seen from Table 2, there are great differences between states in the proportion of prisoners held on remand. Some countries, like Italy and France, have around half of their total prison population on remand, while others, like Sweden and England and Wales, have less than one-fifth. Some national differences

may be attributable to the point in the process at which prisoners cease to be on remand (which may be upon sentence or at the point after sentence at which appeal against sentence is no longer permitted), and some to differences in the speed with which sentence follows conviction. We do not really know the consequences of different patterns of remand imprisonment. Comparative studies of this issue should take very high priority.

Diversion

The second category of decision identified earlier concerns those which lead to ways of handling a case other than by formal court appearance. Such decisions may be made by the police themselves. Under certain circumstances, and depending upon the discretion the police are allowed to exercise, they may decide to let an offender off with an oral warning. Especially concerning young offenders, most countries allow judges or prosecuting authorities a similar discretion to issue written or oral warnings. The use of a simplified process not involving the courts for punishing lesser offenders by fines is available in all European and North American countries. Furthermore, the status of certain suspects may be changed from that of "criminal" to that of a person in need of help and treatment for substance abuse or mental disorder. This may serve to divert the case from the criminal justice to the social welfare or health system. To what extent such cases are diverted from the criminal justice system or have to be formally adjudicated by an appropriate authority depends upon a nation's legal process. Lastly, although the suspect remains within the scope of the criminal justice system, sometimes the case against him or her is adjourned *sine die*, which means that the proceedings are adjourned indefinitely and may be replaced by other decisions of the authority. To the extent that such decisions lead to the termination of criminal cases, they are dealt with in the following section.

Table 2. The proportion of remand prisoners in the total prison population in 1986 (Percentages are rounded).

	Total Prison Population	Proportion of remand prisoners
Austria (30 November)	8 441	21
Belgium (30 December)	6 579	32
Bulgaria (no date)	15 992	8
Canada	(25 572)	(13)
Cyprus (30 June)	220	11
Denmark (1 July)	3 202	23
FRG (31 March)	55 276	22
Finland (1 October)	3 996	14
France (1 April)	45 324 (45 754)	(49)
Greece (31 December)	3 817	26
Hungary (31 December)	23 678	16
Iceland	(88)	(5)
Ireland	(1 852)	(6)
Italy (31 December)	33 609 (43 855)	60 (58)
Luxembourg	(334)	40
Malta	(90)	42
Netherlands (no date)	5 576	42
Norway (daily average)	2 002	22
Portugal (31 December)	8 165 (9 493)	44 (37)
Poland (31 December)	99 472	23
United Kingdom		
- England/Wales (30 June)	46 816	18
- N. Ireland (30 June)	1 957	15
- Scotland (daily av.)	5 588	18
Spain	(23 550)	(48)
Sweden (31 December)	4 032	16
Switzerland (1 May)	3 625 (4 600)	6 (24)
Turkey	(67 416)	(33)
USA ("a typical day")	816 020	
Yugoslavia	16 621	

Comment

The information in this table comes primarily from two sources. Numbers outside brackets are taken from responses to the Third United Nations Crime Survey while those in brackets come from the Prison Information Bulletin (Council of Europe, Strasbourg) No. 7, June 1986, Table 1, p. 27, and reflect the situation on 1 February 1986. For France, Italy, Portugal and Switzerland, data from both sources are presented. It will be noted that there are in some cases substantial discrepancies between data from the two sources.

For Canada, the data are taken from Prison Information Bulletin No. 10, December 1987, p. 29. The figures represent the daily average for the fiscal year 1985-1986. Unfortunately, it has not proved possible to compute the proportion of remand prisoners. The main reason is that there is a lack of information about the use of local jails. Although there is inter-state variation, the situation is generally that these jails are used partly as remand prisons, partly as ordinary prisons where sentences of up to ten months may be served. Existing US statistics conflate these two parts of the jail population.

No data are available from Czechoslovakia, the GDR or the USSR.

6. Adjudications

Introduction

The term "adjudication" as used here refers to the final decision taken by authorities in order to close a case and, in particular, to select the sanction to be imposed. Criminal justice systems differ widely with respect to what sanctioning power they provide to the various law enforcement or judicial authorities. As indicated above, "adjudicatory" decisions can come at any stage of the criminal justice process. The decisions range from cautions by the police to a sentence of imprisonment by the court.

In many countries, the police have a range of options in ending a criminal case either formally or informally. They may also be entitled to impose either administrative or penal law sanctions, depending on the character of the case. In addition to police authorities, other administrative bodies may also be charged with controlling, correcting and sanctioning deviant behaviour prohibited by penal law in general or by particular penal or quasi-penal acts and regulations. Examples of such authorities in various countries are the tax authorities, labour law authorities, industrial safety authorities, customs offices or border police forces, water police forces and so on.

For example in Belgium, France and the Netherlands, the concept of the "transaction" has been adopted as an alternative to formal criminal justice procedure. The transaction is considered, at law, to be a kind of civil law contract between the offender and the state authority in question. In the procedure, the offender agrees to pay a certain amount of money either to the state or to a charitable organization. Such transactions are widely used for traffic offences and, in some cases, also for white-collar transgressions or even misdemeanours.

The extent to which, for example, the police authorities may decide the case by ordering a sanction is generally considered to be slight in those countries applying the legality principle. However, even these countries

have developed solutions which can be considered, in criminological terms, to have much the same functions. An example is the Federal Republic of Germany, where minor traffic offences are handled as so-called "Ordnungswidrigkeiten", administrative transgressions. Traffic cases which are not fairly trivial are dealt with by the (administrative) traffic authorities. Even if a case is appealed and is then transferred to the local criminal court, it formally remains an administrative case. Another example comes from Finland and Sweden where, despite the theoretical rigidity of the legality principle, a policeman can effectively close certain trivial cases by ordering the offender to pay a summary fine. Also in these cases the suspect has the option of bringing the case to court.

Although an analysis of the passing of the case from the police to the prosecutor is fairly straightforward, it is complicated by the dual role that the police have in some states. In Finland, for example, a separate office of prosecutor exists only in the cities; elsewhere, this function is undertaken by a police official. Once the case has come from the police to the prosecutor, the latter generally has considerably expanded options for the final decision, especially in countries where the system is guided by the opportunity principle. These options include waiver of prosecution entirely, either with or without the imposition of conditions. The possibility of the transaction was already noted above. In Sweden, for example, the prosecutor has the option of using summary fines. The prosecutor may and will impose such a fine when the case is not complicated, where there is a heightened public interest, where the defendant's guilt is evident, and where measures in general will not be waived. Such fines are used for traffic offences and also for some minor offences against the person.

Another example of an option available to the prosecutor is the possibility of waiver with conditions. Such a system was adopted in the Federal Republic of Germany in 1975. Among the possible conditions are financial obligations which, in extreme cases, may be as high as hundreds of thousands of Deutschmarks, the obligation to perform community service work or similar charitable tasks, and the obligation to make maintenance payments to (dependant) illegitimate children. This option is used extensively in practice for traffic offences, amongst other offences.

Proceeding to the court function, it should be noted once again that the statistics do not necessarily cover the same range of measures or offences in the different countries. Depending on the judicial system of the country in question, certain parts of the court's function may be delegated to lay courts or to individual mediators for petty forms of crime and/or those offences that arise out of personal relationships, such as neighbourhood conflicts ending in physical injury, and serious insults. Examples of the former are the comrades courts in Eastern European countries (such as the so-called "Schiedskommissionen" and "Konfliktskomissionen" in the German Democratic Republic). An example of the latter is the institution of the "Schiedsmann" in the Federal Republic of Germany.

Even in cases where the matter comes to court, in some countries the court will attempt to settle the matter by negotiation with the parties concerned. This may take place either formally or through the development of functional alternatives. In either case, the matter will again be reflected differently in the court statistics than would a formally adjudicated case. In North America more openly than elsewhere, the process of charge or plea bargaining occurs, resulting in negotiated settlements of criminal proceedings.

After the opening of a trial, the available options are generally much more restricted than at the very beginning of the law-enforcement process. Even so, formal adjudication can often be avoided, even at this late stage. This is possible in countries that officially allow discretion. In countries stressing the legality principle, however, some specific exceptions to that principle have emerged. Again, the differences in the development of such alternatives in various countries hinder any direct transnational comparisons of court statistics.

Issues with special relevance to juveniles

For all the countries from which data are available on this point, the range of formal and informal options of the decision-makers in the criminal justice system are greater in the case of juveniles. Such options may include a mere reprimand. For example in the United Kingdom, the police have the possibility of ending the procedure by

formally requiring the defendant to come to the police station where a specially appointed police officer gives him or her a warning or caution.

Especially with regard to the widely felt need to "educate" juveniles who are considered to be endangered or in need of child welfare, the general preference is to replace simple dismissals with dismissals combined with some type of educational measure, such as directions, orders, duties, training courses and the like. Such cases will rarely be noted in the criminal justice statistics.

Even more distorting effects in a transnational analysis of figures on young persons proceeded against result from the relatively high age levels of criminal responsibility in some countries. For example, in all of the Nordic countries, no one below fifteen years of age can be dealt with by the criminal justice system. In Belgium, the age of penal responsibility is reported to be eighteen years, although in certain circumstances it may be lowered to sixteen years.

In the Federal Republic of Germany, a juvenile is held to have diminished responsibility between the ages of fourteen and eighteen in that the prosecutor and the court are required by law to ascertain in each case whether or not the young person suspected of an offence had, at the time in question, the average capacity of discriminating between right and wrong, and also of acting upon that insight. At least for statistical purposes, this legal prerequisite is not important. Even those below fourteen years of age are counted as offenders in the police crime statistics.

In countries with a relatively low age of criminal responsibility (such as Scotland, where the relevant age is fixed at eight years), the observation can be made that the first peak in the offence rate is reached among fourteen-year-olds. The rather small proportion of such children not dealt with through police sanctioning (caution, warning) will be counted in criminal statistics.

Differences such as those noted above make it highly difficult to try to compare juvenile justice systems in quantitative terms. As a general conclusion regarding adjudication in cases involving juveniles, it can be

stated that formal adjudication appears to be more the exception than the rule.

Sanctions imposed

The three main types of decisions made by the courts in formal adjudication are acquittal, dismissal and conviction. The survey provided only perfunctory data on the first two. On the other hand, several questions were designed to obtain data on convictions and on the sanctions imposed. The classification used for the sanctions was: deprivation of liberty, control in freedom, warning or admonition, and fines.

Deprivation of liberty. Imprisonment is the backbone of the system of sanctions of all countries in Europe and North America. Although there are many variations (such as split sentences, semi-liberty or semi-detention) and many degrees of severity (for example "Kerker" and "réclusion" as forms of imprisonment in the penitentiary in Austria and France, respectively), the essence remains the same: the offender is deprived of his or her liberty.

Control in liberty. Many sanctions involve considerable supervision and control of the offender. These include suspended or conditional imprisonment with supervision, probation, community service, reformative and educative labour, special forms of treatment and local banishment. The most common are probation and suspended or conditional incarcerative sanctions with supervision or the condition of treatment.

In some countries, violation of probation does not automatically lead to obligatory and immediate revocation. Options may be fines or an extension of supervision. (In Sweden, the court has the option of imposing one or two weeks of custody in cases of violation of probation.) Should the violation of probation lead to incarcertaion, various ways of proceeding exist. In some jurisdictions, the term of imprisonment to be imposed in case of a violation is stated already at the time probation is ordered, and the court has no discretion as to how long of a term to impose. In others, where the term of imprisonment is similarly stated at the outset, the court has discretion in whether or not to impose it in

full. In yet other jurisdictions, the term is not determined until and unless such a violation occurs.

Community service is a fairly recent innovation. It was first introduced in its present form in England and Wales in 1973. The sanction involves performance of a certain number of hours of unpaid work for the good of the community. The consent of the offender to the community service order is required. The use of this sanction has spread to several other countries. A corresponding sanction exists in Bulgaria, Czechoslovakia, the German Democratic Republic (unpaid work for the public welfare), Hungary, Poland (limitation of liberty), Romania (labour punishment without loss of liberty) and the Union of Soviet Socialist Republics (corrective or obligatory labour). Essential differences between these and community service are that the former are imposed during working hours and rely heavily on the supportive and supervisory input of the work collective, while the latter is imposed during leisure hours. Another difference is that in the socialist countries, the offender is paid, but a certain percentage of the salary is deducted.

Treatment as a sanction is not widely used. This rehabilitative measure is used for specific offender categories, where medical or psychiatric expertise suggests that there is a connection between the offence and, for example, drug addiction or a drink problem. The consent of the offender is often a condition for the order to treatment.

Home probation is one of the more recent innovations in criminal justice. The offender is required to stay at home for a certain period (generally, two or three months). The extent of the confinement may be limited to night-time, or to night-time and leisure hours. It may also be full-time confinement for twenty-four hours a day. So far, this option is available (combined with electronic monitoring) only in a few jurisdictions in the United States. Experiments with electronic monitoring have been carried out in British Columbia (Canada) and the United Kingdom.

The conditions of home probation may include full or partial abstinence from alcohol, or counselling or treatment for substance abuse. Offenders are generally subject to surveillance, either in the form of face-to-face surveillance or as electronic monitoring.

Warnings and admonitions. These are customarily used where the offence is not grave and especially where the offender has no criminal record. They are known by a variety of names, including admonition, absolute discharge and conditional discharge.
The most common penal warnings are findings of guilt with no sanction imposed and conditional or suspended sentence with no supervision or control. Admonitions are possible in a great number of countries. Release on recognizance or release on a bail order are related to penal warnings: the offender is convicted, but sentencing is postponed until a further date. His or her behaviour in the interval is taken into consideration when deciding on the final sentence.

Fines. State intervention in the offender's life is at a minimum where monetary payments are concerned. Fines are the best known and most used of this category of sanction. They are economical in terms of both money and labour, and practical in terms of management and administration. They are also humane, as they inflict a minimum of social harm. However, fines can create inequities by discriminating against the poor, for whom they are often converted into imprisonment because of non-payment. This disadvantage can be overcome through the use of the day-fine. (The day-fine is in use in Austria, the Federal Republic of Germany, Finland, France, Hungary, Luxembourg, Portugal and Sweden). It has been proposed in Belgium, Canada, Switzerland and England and Wales. In Sweden, for example, no fine-defaulters at all were sent to prison from 1984 on, despite the very widespread use of the day-fine.)

The inequities of fines can also be overcome through limitations on the conversion of unpaid fines into imprisonment, by granting reprieves of payments or the possibility of paying in installments, and by allowing the court discretion over whether or not conversion shall take place. In Bulgaria, Italy and the Union of Soviet Socialist Republics, non-payment of fines cannot lead to imprisonment. In the last-named country, non-payment can result in an obligation to repair the damage caused, a public reprimand or (where the default was deliberate) work duty. In the Federal Republic of Germany, non-payment can lead to community service. England is considering the adoption of fine-option orders, which

require offenders to complete some community service in lieu of payment of a fine.

In the United States, certain states may also charge fees of offenders for various services, such as for supervision, drug testing and other special needs. This measure has not been reported from other countries.

Other sanctions. Compensatory payments (compensation orders and the like) were noted in only a few countries (Cyprus, Greece, Scotland, Turkey, England and Wales, and the Union of Soviet Socialist Republics). In many countries, it can be imposed as one of several conditions of a conditional sentence. Generally, however, compensation or restitution is a civil matter, even if in many jurisdictions it is often ordered by a criminal court.

Numerous other sanctions exist in one country or another: examples are suspension of a driving licence or other licence; deprivation of certain rights and/or removal of professional status; and confiscation of personal property as an independent sanction. Finally, there are wide provisions for the combination of custodial with non-custodial sanctions and the combination of different non-custodial sanctions.

Table 3. **Number of custodial, non-custodial and total sanctions imposed, 1986**

	Deprivation of liberty	Control in freedom	Warning, admonition	Fine	Total sanctions
Austria	8624	13423		53174	75221
Bulgaria	18383		8823	2535	34419a
Canada *	(13543)*	(10685)*	(1783)*	(37533)*	(63544)*
Cyprus			478	5306	
Czechoslovakia	37410	35429		41354	114257b
Denmark	14289		8910	78663	101862
FRG	34201	73691		487416	595308
Finland	11472	15601	34	319074	346181
France	295310	26085	86405	728354	1136154
Greece	101880		16216	14757	116653
Hungary	28108	3189	5476	23166	60313c
Italy	51250		25986	60081	137317
Malta	82		1805	7365	9252
Netherlands	20541			56978	68561d
Norway	4516		4419	240	9175
Portugal	3662	47	2585	7493e	13787
Spain (1984)	42098	2069		36067	80234
Switzerland	12740	27434	1899	19186	61669f
Turkey		48611			
USSR	418039	90528g	108794	194683	1104112
United Kingdom					
-England & Wales	64292	65800	110400	136800	377292
-N.Ireland	2228	1479	3542	2832	10330h
-Scotland	9881	2861	10168	103568	127373i
United States	395006j	180066j			
Yugoslavia	24513	39513	6413	44372	114977k

* data available for British Columbia only

a includes 33 sentences of capital punishment and 4645 "other"

b includes 1 sentence of capital punishment

c includes 1 sentence of capital punishment and 373 "other"

d includes 14 599 "imprisonment with fine" and 3049 "other"

e includes 3 016 sentences of imprisonment with the option of a fine

f includes 410 "other"

g plus 292 068 sentences of corrective labour without deprivation of liberty

h includes 249 "other"

i includes 288 absolute discharges, 488 compensation orders and 119 insane and hospital orders

j State courts only. "Deprivation of liberty" includes prison and jail, and the "control in liberty" is probation.
In addition, capital punishment was imposed in 297 cases.

k includes 3 sentences of capital punishment and 163 "other"

7. The enforcement and execution of sanctions

The impossibility of devising a valid indicator

It has already been said in the HEUNI report on the Second United Nations Survey that supplementary data would be necessary to ascertain how sentences were in fact executed. In the absence of such information the available data do not allow us to give evidence about the execution of sentences. Some of the difficulties encountered will be mentioned.

First, sentences *pronounced* are not necessarily sentences to be *executed.* In the Netherlands, for instance, 74 864 sentences were pronounced in 1986 but only 68 561 were sentences that could not be revoked. This situation may exist in other countries but since this point was not mentioned in the United Nations questionnaire, there is no way to take this factor into account. Second, and concerning ourselves exclusively with prison sentences, some of the counting problems preventing us from considering the "admission to prison under sentence" as an indicator of execution of sentences are the following:

a) If the term of the sentence has already been served as detention on remand, people will be released without ever having been counted as admitted to prison under sentence (nor will they be counted as held in incarceration under sentence). If the term of the sentence is longer than the detention under remand, several recording practices may exist. In England and Wales, for instance, while a case is proceeding through the courts, people may be included in several categories of reception in succession. Thus they will appear as "admitted under sentence". In France, people already detained under remand, if ever sentenced to imprisonment will never be counted as having been admitted to prison under sentence, since they are already detained.

b) A problem arises when the same person is convicted of a multiplicity of offences at different court appearances. A person may be admitted to prison for one offence and then be sentenced to prison for others without ever being counted as having been admitted to prison for these other offences.

c) In some countries prison sentences may be split up into several periods of time (as in week-end detention), thus producing several admissions for one sentence.

For all the reasons set out above, admissions to prison under sentence cannot be considered as accurately reflecting the execution of prison sentences. Similar counting problems arise when considering the number of persons "placed on probation" as an indicator of the execution of probation orders.

As far as the execution of penal fines is concerned, the Third United Nations Survey provides us with some indication of non-execution: we know for some countries the number of those held in incarceration for non-payment of penal fines. However, this tells us very little about the enforcement of monetary penalties since we do not know what are the legal and actual consequences for people who are fined if they do not pay for it, or what proportion of those people who do not pay are eventually incarcerated and for how long.

The enforcement of sentences involving control in freedom

Use of early release seems quite different according to country. It would be interesting to relate this way of leaving prison after sentence with the total number of people leaving prison after sentence during the year. This would illustrate the practices concerning early release which go from a rather automatic measure to a discretionary decision.

Eighteen countries gave the number of people placed on probation during the year. This comprises close as well as loose supervision. If comparable, these figures could be related to admissions to prison to build an indicator of the relative use of restricted liberty versus deprivation of liberty.

The analysis of sanctions which follows will focus, as far as prison sentences are concerned, on cross-national analysis of "situations" such as "prison population", or "events" rather than people, such as "admissions to prison". It should be emphasized that admissions concern events and not people: the same person may be admitted to prison several times during the year. Fines will not be treated at all.

An analysis of incarceration through detention rates, admission rates and average duration of stay in prison

Use of incarceration is understood in a broad sense, that is, as use of detention whether under remand or under sentence. Since some offenders eventually sentenced to prison will only appear in prison statistics as "detained on remand", it seems justifiable to include detention on remand in the analysis of the prison sentences although there are no data available to measure to what extent detention on remand will eventually be covered by the term of the sentence.

The Third United Nations Survey asked for information not only on the prison population "as of one day preferably typical for the whole year", but also on admissions to prison, which allows new insights on incarceration in the various countries. Although conscious of all the problems mentioned above, we will calculate several indicators to describe the use of incarceration, the soundest one remaining the detention rate, due to all the definitional problems of an "admission".

Various indicators are presented in Table 4. Column (a) gives the prison population, either as a daily average or on one day during the year. Column (b) gives the total prison population per 100 000 inhabitants. Column (c) gives the rate of sentenced prisoners per 100 000 (sentenced prisoners include those persons held in incarceration, either sentenced directly to imprisonment or imprisoned for non-payment of a fine, but it does not include prisoners under remand). Column (d) gives the proportion of remand prisoners. Column (e) gives the total admissions to prison during the year and column (f) the admission rate per 100000.

Table 4 shows that the prison population per capita ranges from 31 per 100 000 in Cyprus and 38 in the Netherlands to 223 in Hungary and

Table 4. Prison population, 1986. (Rates rounded).

	Prison population (a)	Prison population per 100000 (b)	Sentenced prisoners per 100000 (c)	Proportion on remand (d)	Total admissions, 1986 (e)	Rate of admission (f)
Austria (30 Nov.)	8441	111	82	26	18587	245
Belgium (30 Dec.)	6579	67	30	32g	20102	204
Bulgaria (no date)	15992	178	152	14	11184	124
Canada (daily av.)	26727	104	92	14		466
Cyprus (30 June)	220	31	26	10	527	75
Denmark (1 July)	3202	63	48	23	15213a	298a
FRG (31 Mar.)	55276	91	69	22	93622	154
Finland (31 Dec.)	3996	81	69	14	9216	187
France (1 April)	45324	82	42	49	87906	159
Greece (31 dec.)	3817	38	30	25	6599	66
Hungary (31 Dec.)	23678	223	152	18	39307	371
Italy (31 Dec.)	33609	59	24	60	79059	138
Netherlands (no date)	5577	38	22	42	23458b	161b
Norway (daily av.)	2002	48	37	29	11923	286
Poland (31 Dec.)	99427	265	198	23		
Portugal (31 Dec.)	8165	80	45	44	10751	105
Sweden (31 Dec.)	4032	48	40	16	14188	170
Switzerland (1 May)	3625	56	52	6	10416c	160c
Turkey	18313d					
United Kingdom						
-England & Wales (30 June)	46816	94	73	18	86153a	172a
-N.Ireland (30 June)	1957	122	104	15	3733a	233a
-Scotland (daily av.)	5589	110	90	18	23224e	455a
United States	816020	336	267	20	203315f	84f

a Admissions under sentence

b Data for 1985

c Several offences for the same person may be mentioned in different categories

d Data from Turkey seem incompatible and are therefore not used.

e 23224 receptions under sentence and 18107 receptions under remand

f does not include 8 261 176 adults admitted to jail; this together with admissions to prison would give a rate of 3 483 per 100 000.

g In Belgium, 23% of the prison population are not counted as being detained under remand or as sentenced prisoners. These are vagrants, foreigners and psychiatric prisoners.

265 in Poland. The scope of institutions and people taken into account by these data may explain some of these differences, but there is no way to check on this; the questions were asked for total population.
On a crossnational basis, the use of remand detention does not explain the high detention rates in some countries: the six countries with the highest over-all detention rates are the same countries with the highest rates of sentenced prisoners.

Table 4 shows the rates of total admissions to prison for several countries (some countries gave only the number of admissions under sentence). The prison population per capita and the admission rate can be used to roughly calculate the average duration of stay. A high detention rate may result from a high admission rate and/or a long average duration of stay in prison. The average duration of stay in prison "d", in months, by the formula:

$$d = \frac{\text{(daily average number of prisoners/number of admissions during the year)}}{} \times 12$$

Such an estimate provides only an approximate figure, since it assumes, inter alia, that the sentencing practice remains the same. If the figure given for prison population is representative of the daily average, the indicator of average duration of stay can be calculated for sixteen countries (Table 5).

Table 5. Estimate of the average duration of stay in prison, 1986. (Rates rounded).

	Prison population per 100 000	Rate of admission per 100 000	Average length of stay in prison
Austria (30 Nov.)	111	245	5,4 months
Belgium (31 Dec.)	67	204	3,9
Bulgaria (no date)	178	124	17,2
Canada (daily av.)	104	466	2,7
Cyprus (30 June)	31	75	5,0
FR Germany (31 March)	91	154	7,1
Finland (31 Dec.)	81	187	5,2
France (1 April)	82	159	6,2
Greece (31 Dec.)	38	66	7,0
Hungary (31 Dec.)	223	371	7,2
Italy (31 Dec.)	59	138	5,1
Netherlands (no date)	38	161	2,8
Norway (daily av.)	48	286	2,0
Portugal (31 Dec.)	80	105	9,1
Sweden (31 Dec.)	48	286	3,4
Turkey (1 Sep.)	102	231	5,3

The highest detention rates are not always linked to the highest admission rates. The high detention rate in Hungary may be explained by the high admission rate, whereas in Bulgaria the admission rate is rather low; the high detention rate here is linked to the duration of stay in prison. Very high admission rates (such as in Canada and Hungary) result in very different detention rates, due to the difference in duration of stay in prison. Even when the indicator of the average duration of stay in prison is the same (as in the Federal Republic of Germany, Greece and Hungary), this may correspond to detention rates ranging from 38 to 223 per 100 000.

This illustrates how different the use of incarceration can be from one country to another, regardless of how similar in value a single indicator may be.

The indicator of the average duration of stay in prison (the third column in Table 5) appears to depend on the use of remand detention, the length of prison sentences and the use of early release. The Third United Nations Survey asked a question on the average length of prison sentence actually served in prison for all adults. This indicator thus incorporates the length of the sentences and the use of early release, if any. It is not clear whether the term of sentences already served under remand should be included or not. If not, it may well be that short sentences have a greater change of being reflected in this indicator, because they are more likely to be served under remand. In addition, it should be noted that this indicator is based on data for adults only. It is therefore likely to be higher than the average length of prison sentence for the entire population.

A comparison between this indicator and detention rates can be made for eleven countries. The data on this are presented as Table 6.

Table 6. Detention rate and length of sentence, 1986. (Rates are rounded).

	detention rate (100 000)	average length of prison sentence actually served for adults
Poland	265	25,1 months
Bulgaria	178	16,0
N. Ireland	122	17,2
Austria	111	6,5
Scotland	110	2,4
England/Wales	94	7,0
Finland	81	7,7
Denmark	63	3,6
Italy	59	13,0
Switzerland	56	4,0
Netherlands	38	4,8

Netherlands, Switzerland and Denmark combine rather low detention rates and short average length of served prison sentence. Poland and Bulgaria show long average length of prison sentence, consistent with their high detention rates. Italy, with a detention rate rather close to those of the first group, shows a mean length of prison sentence about three times higher. This may due to the high proportion of prisoners under remand in Italy (60 %).

Changes over time in the prison population

Between 1982 and 1986, of 22 countries for which calculations could be made, 15 have seen their prison population rising (Table 7). The number of sentenced prisoners rose also, sometimes more sharply. This happened in Belgium, Denmark, France, Greece, Norway and Poland. Data on admissions are available for nine of these countries. Comparison between changes in the prison population and admissions tends to show a lengthening of the estimated average duration of stay in prison. In France and Belgium this yielded a situation where prison population grew although admissions decreased.

For the other seven cases, the prison population has decreased. In Austria, the Federal Republic of Germany and Canada, the prison population decreased, and admissions decreased even more. To be consistent with this, those admitted either on remand or under sentence would have a longer average duration of stay in prison. An indicator of this exists in Austria where the average length of prison sentence went from 27 to 28 weeks. In Italy too, admissions declined much more than the prison population and the number of sentenced prisoners went up; all this is consistent with the lengthening of the average prison sentence (11 to 13 months).

Table 7. **Percentage change in prison indicators between 1982 and 1986, Europe and North America. (All percentages are rounded).**

	Prison populat. (total)%	Sentenced prisoners (total)% a	Admission (total)%	Prison Sentence (adults) in months b
Austria 84-6	–6	–5	–9	27/28
Belgium	+4	+12	–5	
Bulgaria	+13	+11	+9	
Canada c	–1	–2	–11	
Cyprus	+47	+27	+50	
Denmark	+1	+5		4/4 d
FRG	–11	–5	–24	
Finland	–16	–15	–10	8/8
France 84-6 e	+9	+19	–2	
Greece	+17	+26	–0	
Hungary	+20	+15	+11	
Italy	–4	+28	–23	11/13
Netherlands	+22	+24	–5 f	
Norway	+6	+11	+2	
Poland	+25	+33		24/25 g
Portugal	+59	+31	+75	
Switzerland	+36	+37	+14 h	3/4
United Kingdom				
- England & Wales	+6	+1		7/7 ijk
- N.Ireland	–26	–25		13/17 ij
- Scotland	+14	+13	+13	2/2
USA	+16			

a Sentenced plus non-payment of penal fine.

b Average length of prison sentence actually served in prison (adults) : figures from 1982 and 1986.

c The figures relate to adults only.

d Average length of sentences.

e Because of the presidential amnesty in 1981, the prison population in France dropped drastically. Therefore 1982 is not a very significant year to consider.

f 1985 / 1982

g The average length of prison sentences the prisoners are beginning to be served.

h Several offences for the same person may be mentioned in different categories.

i Excluding fine defaulters.

j Excluding any time spent on remand in custody or in Prison Service establishments.

k On completion of sentence or release on licence.

The overall trend seems therefore to be a general rise of the indicator of the average duration of stay in prison. This result is consistent with those obtained through the Council of Europe (Tournier P., Bulletin d'Information Pénitentiaire, 1989, n. 12). Also, when the data on this are available, the average length of prison sentence actually served for adults seems to be rising. This situation could result from changes in the number and type of offenders "entering into" the penal system and/or from changing practices at any stage of the system.

Two specific populations: females and juveniles

While the Third United Nations Survey did not seek information on females and juveniles held in incarceration, it did ask information on number of admissions and number of convicted prisoners by sex and age (adults versus juveniles) (Table 8). Issues concerning juveniles are quite difficult to analyse. The survey gives information on "minimum age limit of criminal responsibility" and "lower age limit to be treated as adults in criminal cases". These two limits are given in column (a) in table 8. In some systems, specific treatment is provided for young offenders even after this age. This second age limit is then given in brackets. The age definitions of juveniles vary widely. Crossnational comparison suffers also from the fact that depending on the country, some custodial establishments may or may not be included. Comparison between "percentage admissions" and "percentage convicted prisoners" is difficult because

Table 8. Specific populations: females and juveniles. (Rates rounded).

		Juveniles		Females	
	Age definition	% of admiss.	% of convicted. prisoners	% of admiss.	% of convic. prison.
	(a)	(b)	(c)	(d)	(e)
Austria	14-18	3	1	6	
Belgium	-18	6	0 a	8	4
Bulgaria	14-18	4	2	10	8
Canada b	2-18			8	
Czechoslovakia	15-18				
Cyprus	12-16	31		2	
Denmark	15-18 (21)			4	
FRG	14-18		1		4
Finland (1985)	15-18			3	3
France	13-18	5	1	6	2
Greece (1985)	7-18			4	2
Hungary	14-18		6		7
Italy	14-18	6	0	8	4
Malta	9-18				
Netherlands	12-18	2		2	
Norway	14-18			9	
Poland	17-21c		16		4
Switzerland	7-18 (25)	-	-	5	5
United Kingdom:					
-England & Wales	10-17	5 d	2	5(1)	3
-N.Ireland	10-17	1 de	4	3(1)	1
-Scotland	8-17 (21)	38	24	5	3

a There are no convicted juvenile prisoners.

b Adults only.

c Refers to young adults rather than juveniles.

d Admissions under sentence.

e Data on admissions to training schools are not available; the figures therefore underestimate the number of juveniles admitted to custody.

a juvenile may have been admitted as a juvenile and, later on, be classified as an adult.

For all countries giving the information, the percentage of females admitted to prison (column d) is quite low: from 10% in Bulgaria and 9% in Norway to 2% in Netherlands and Cyprus. For 11 cases, comparison can be made with percentages of female (convicted or sentenced) prisoners (column e). In all cases but two (Finland and Switzerland), the percentage of females in prison is lower than the proportion of females admitted to prison. When comparing admissions under sentence and sentenced prisoners as in the United Kingdom, this means that females tend to serve shorter sentences than males. When comparing total admissions and convicted prisoners, it may be that females are convicted after admissions in a lesser proportion than males and/or that they serve shorter sentences. All this is due partly to differences in the number and kind of committed offences and in the way these offences are treated through the system.

The Third United Nations Survey provides new insights on the use of incarceration. However, one has to be very careful because of the inaccuracy of the concept of "admission". The imprecision of the information given by the indicator "d" of the average duration of stay in prison used in the above analysis should also be emphasized, since the same value of a mean can result from very different distributions. The HEUNI report on the Second United Nations Survey has already underlined the utility of having data on the number of prisoners discharged each year along with information on length of stay, term of sentence(s) and remand detention. There would still be some difficulties with detentions spread over several periods of time, for the same case. Mention should be made here also of the imprisonment statistics. This implies rather sophisticated data on admissions to prison, by demographic variables and by criminal history.

8. Resources

Introduction

As already noted in the HEUNI report on the Second United Nations Survey (HEUNI 1985, p. 54) problems related to financial and personnel resources are among those which are most difficult to deal with. National thinking on these questions differs considerably. Very little data was provided in the responses. Taken together, these difficulties mean that even where the answers are given, they require care in making comparisons, or they may even prove to be non-comparable. Where they are given, the answers may have little value. The questions dealt with under this heading refer to the connected problems of financial and personnel resources, and the answers will be set out below under these two headings. For both of these issues, the questionnaire divides information into four categories - police, prosecution, courts and prisons.

Financial resources

Eight out of 29 national answers did not provide any data and eleven answers were complete, in that they provided data on financial resources in the national currency for police, prosecution, courts and prisons. Data for these countries as such and as a proportion of the gross domestic product in 1986 are given in Table 9.

Table 9* **Financial resources allocated to criminal justice, in US dollars and as a proportion of the gross domestic product 1986.**

	Resources in billion USD	GDP in billion USD	Resources/GNP %
Denmark	0,632	68,8	0,9
Finland	0,554	62,3	0,9
France	1,976	724,2	0,27
Netherlands	1,824	175,3	1,04
Norway	0,430	69,7	0,6
Portugal	0,046	27,4	0,1
Sweden	0,941	114,4	0,8
Switzerland	0,103	135,0	0,07
USA	52,499	4 185,4	1,23

*) GDP data taken from World Development Report. 1988. Rates of exchange taken from UN Monthly Bulletin of Statistics.

It is especially in connection with this table that caution should be exercised: an international analysis is made difficult by the differences in accounting and counting procedures. We can make a very general observation that the percentages of the GDP consigned to criminal justice differs from one country to another and that the cost of the administration of criminal justice probably does not exceed 1-2,5%.

Personnel resources

The report will deal separately with police, courts and prosecution, and prison resources.

Police

Sixteen countries (out of 29) answered this question by providing the number of police officers in 1986. One country (Portugal) gave a number that differs markedly from all the others, suggesting that it should not be regarded as comparable with them. The rough indicator

chosen for police strength (presented as Table 10) is the number of police officers per 100 000 inhabitants.

Table 10. Total number of police personnel, and number per 100 000 in population, 1986. (Rates rounded)

	Police (n)	Police per 100 000 pop.
Austria	27 656	363
Canada	54 604	218
Cyprus	3 781	61
Denmark	9 416	184
Finland	11 589	241
France	199 757	360
Italy	76 092	133
Netherlands	28 516	195
Norway	5 996	146
Portugal	1 736	17
Switzerland	13 100	201
United Kingdom	180 039	317
United States	629 745	259

It is difficult to say to what extent the data on police personnel are comparable. Some countries indicated that they also have additional police forces that are not included in the above figures. Furthermore, the above figures may include police officers who do not deal at all with criminal cases (but instead with, for example, traffic or administrative matters).

Prosecution and court personnel

Twenty countries supplied data on this issue. The data varied considerably, and it is difficult to find a common basis for comparison. For this reason, for example the data on prosecutors could not be used. (Indeed, one response noted that its criminal justice system did not have any prosecutors.)

The data on court personnel (Table 11) suffer from two deficiencies. First, for nine countries, the data refers to all judges. Second, the role of lay magistrates differs substantially in different systems. However, a rough comparison of the number of judges per 100 000 inhabitants may yield some insight into the different criminal justice systems and allow comparison of personnel.

Table 11. Total number of judges, and number per 100 000 in population, 1986. (Lay judges are not included. Rates are rounded).

	Judges	Judges per 100 000 pop.
Austria	1 503	20
Cyprus	7	0
Denmark	601	12
Finland	220 *	5
France	2 915	5
FRG	4 216	7
Greece	937 *	10
Hungary	460 *	4
Italy	519	1
Netherlands	273 *	2
Norway	129 *	3
Poland	1 377 *	4
Portugal	506	5
Spain	963	3
Switzerland	396	6
Turkey	1 220	3
USSR	4 599	2
United Kingdom	1 254 *	2
United States	4 953 *	2
Yugoslavia	1 680 *	7

* In these countries data for *all* judges were indicated. For purposes of comparison, 30% of these numbers were taken to represent those dealing with criminal matters. (NB. the figure for the United States only includes Federal and state judges.)

The range of rates is very great. The data should be looked at with great caution. Three countries have exceptionally high, and two exceptionally low, rates. Most countries fall within the range of 2 to 7 judges per 100 000 inhabitants.

Prison personnel

Two questions in the survey deal with the numbers of prison staff and the number and size of prison establishments. Both give insight into the personnel resources in the penitentiary system. All but seven countries supplied complete answers to the question on prison staff. The data are presented as Table 12.

The data for Turkey differ significantly from the others. This may be due to a different method of responding to the questionnaire. One would be inclined to think that the entries for management and custodial staff should be reversed. Austria, the Netherlands, Poland, Portugal and Scotland report the lowest proportions of managerial staff (3% or less) while Finland and Norway report the highest (18 and 22% respectively). In all countries analyzed the bulk of staff perform custodial functions, but here too there is a wide range, from 53 to 90%. Measured simply in terms of the number of treatment personnel, the treatment orientation seems to be strongest in the Netherlands, Poland and the United States. In some instances there are high percentages under the heading "other" (e.g. Bulgaria, Netherlands, Poland, Turkey and Northern Ireland) but most national returns do not clarify the functions of the residual category of staff. Those that do refer to maintenance, food and clerical functions.

An attempt was made to establish the relationship between the number of prison staff and the population. The results are shown in Table 13.

Table 12. Prison staff in 1986, total and by function

	Managerial		Custodial		Treatment		Other		Total
	N	%	N	%	N	%	N	%	N
Austria	88	3	3020	90	211	6	39	1	3358
Bulgaria	151	6	1518	58	335	13	613	23	2617
Canada									19556
Cyprus	10	5	164	90	5	3	4	2	183
Denmark	348	10	2260	65	278	8	591	17	3477
Finland	411	18	1399	60	198	8	329	14	2337
France	1548	9	13093	80	1277	8	527	3	16445
FRG	3634	13	20261	72	1847	7	2207	8	27949
Greece	121	10	997	85	52	4	-	-	1170
Italy	1912	6	22788	75	4287	14	1559	5	30546
Netherlands	118	2	3205	61	981	19	956	18	5260
Norway	218	22	1002	65	33	2	285	19	1538
Poland	342	2	11836	53	3580	16	6345	29	22103
Portugal	47	1	2148	68	230	7	713	23	3138
Turkey	10468	89	734	6	255	2	374	3	11831
UK									
-England & Wales	3572	14	17736	72	1849	8	1533	6	24690
-N.Ireland	372	11	2173	66	91	3	674	20	3310
-Scotland	64	3	1797	81	59	3	290	13	2210
US (1984)	5061	4	92680	66	22320	16	20783	15	140844

Table 13. Prison staff in relation to total population and prison population 1986.

	Prison staff N	Prison staff per 100000 pop.	Prisoners per staff member
Austria	3358	44	2.5
Bulgaria	2617	29	6.1
Canada	19556	78	1.4
Cyprus	183	3	1.2
Denmark	3477	68	0.9
Finland	2337	49	1.7
France	16445	30	2.7
FRG	27949	46	2.0
Greece	1170	13	3.3
Italy	30546	53	1.1
Norway	1538	38	1.3
Poland	22103	60	4.5
Turkey	11831	23	1.5
United Kingdom	30210	53	1.8
United States	140844	58	5.8

The number of prison staff per 100 000 in Cyprus is considerably below the corresponding number elsewhere, but the number of prisoners per staff member is in the same range. Denmark is the only country where there are more prison staff members than prisoners.

The Third United Nations Survey also provided data on prison capacity (in terms of the number of "beds"). This may be seen as an indicator of material resources, or alternatively as a partial determinant of the size of a nation's prison population. The data are presented as Table 14.

Table 14. Total number of prison beds, and number per 100 000 population, 1986.

	Number of beds per 100000 pop.	Prison beds
Austria	9574	126
Bulgaria	15500	172
Denmark	3734	73
FR Germany	48302	79
Finland	4416	92
Hungary	22841	215
Italy	35647	62
Netherlands	5205	35
Poland	100536	268
Portugal	7 315	71

The last question concerning resources deals with the size and number of penal institutions. The results are presented as Table 15.

Table 15. Number of penal institutions by size.

	Type of Institution								
	0-99		100-499		500-999		1000+		Total
	N	%	N	%	N	%	N	%	N
Austria	3	11	21	78	3	11	0	0	32
Bulgaria	7	24	9	31	11	38	2	7	29
Denmark	52	83	10	16	1	1	0	0	63
FRG	48	28	77	50	28	18	5	4	153
Finland	3	19	13	81	0	0	0	0	16
Italy	283	73	91	24	6	2	5	2	385
Netherlands	37	62	23	38	0	0	0	0	60
Norway	38	83	8	17	0	0	0	0	46
Poland	18	8	128	60	41	19	26	12	213
Portugal	20	53	15	39	3	8	0	0	38
Switzerland	134	93	10	7	0	0	0	0	144
UK	10	10	67	67	20	20	3	3	100
United States*			452	65	138	20	104	15	694

* 1984 data; no break-down between 0-99 and 100-499, respectively, is available. Does not include "community-based facilities".

The responses show very different patterns in different countries. Table 11 suggests that some countries (Denmark, Finland, the Netherlands, Norway, Switzerland) prefer small institutions. There are relatively few institutions with capacities over 500; Finland, the Netherlands, Norway and Switzerland do not have any facilities of this size. The largest institutions are to be found in Poland, the Federal Republic of Germany, Italy and, in particular, the United States.

PART III
DYNAMICS IN CRIMINAL JUSTICE

1. Introduction

In this chapter, it is intended to sketch some relationships between crime rates over time, and between crime and punishment indices and selected social variables. The qualifications which must attend this enterprise must first be touched upon.

If it were not already evident to the reader, it must have become evident from a reading of Part II of this report that the image of crime and punishment which emerges from official data is distorted. Supplementation of official data by victimisation surveys or other data is helpful but does not entirely remove the distortions. The ways in which official statistics of crime and punishment are distorted are known in principle, but the distortions mean that precise inferences about differences over time and between places are not possible. However, some changes are so gross that they can be interpreted. In England, David Philips has shown how frequent was the theft of large domestic animals in the mid-nineteenth century.[2] From this, it would be foolish to assume that the English have become more law-abiding with respect to each others' horses and cows. It almost certainly reflects the mechanisation of farm work and changes in the practice of keeping animals. Similarly, theft from one's place of work was the offence most frequently heard before the higher court in the area which Philips studied.

More directly, Lief Lenke demonstrated the relationship between drug use and crime in Stockholm.[3] Using the rate of inoculation hepatitis as a proxy for the rate of drug use, Lenke ingeniously showed that rates of burglary (break and entry) and theft from cars closely corresponded with rates of drug use, so measured. The relationship is not necessarily causal, but self-report of drug users who commit crime to feed their habit

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[2] David Philips, *Crime and Authority in Victorian England* London: Croom Helm, 1977.

[3] Drugs and Criminality in Scandinavia. In N.Bishop (ed) *Crime and Crime Control in Scandinavia 1976-80.* Oslo: Scandinavian Research Council for Criminology)

complements Lenke's data, and make it highly probable that the relationship is causal.

Much criminological research shows occupational crime to be frequent. However, it is very infrequently subjected to prosecution in many countries. This pattern probably reflects changed power relationships within the workplace as much as anything. In short, changes in patterns of crime and punishment subtly interact with changes in other social characteristics, and the causal route may be direct or indirect, simple or complex. The important thing to which to hold firm is the inappropriateness of making political capital out of any pattern. To take one instance, if a nation is characterised by a high rate of custody in remand, that could equally well be interpreted as a result of a high tendency to punish people or as the result of fastidiousness in recording any encroachment on a citizen's liberty. In a country which puts an especially high premium on the citizen's right to liberty, the official procedures to restrain that liberty will be taken *quickly* after de facto detention. This will lead to the recording of higher levels of pre-trial custody than in other countries where such detention may be more frequent and last for longer, but where recourse to official recording is less prompt. Also when comparing "unsentenced" remand populations, a crucial factor is the point at which a prisoner is deemed to have been sentenced. In some countries, immediately after sentence is pronounced, a prisoner's status changes. In others, such as Italy and France, the last date on which a prisoner may appeal against sentence must pass before he or she is defined as definitively sentenced. It could be argued that this latter group of countries is less inclined to punish, in that the presumption of innocence is held until the last possible moment. Yet these tend also to be the countries with higher "pre-sentence" incarcerated populations. Clearly, without knowing the relevant practices, figures on a country's use of "pre-sentence" custody is misleading.

Higher rates of violent and sexually assaultive offences seem to characterise more developed countries, but this may indicate that development goes with the view that a person has the right to unrestrained use of the body, and hence takes more seriously any violent infringements of that right. It could, of course, simply be that development goes with increased violence.

The central message, which stands repetition, is that one should not try to go very far in interpreting any pattern of official crime statistics. Thus,

restraint is necessary so that crime data are not used inappropriately in support of a political position. Sadly, such use has been the rule rather than the exception, both nationally and internationally.

2. Expressing crime and punishment rates in relation to population

Problems in estimating the dynamics of crime and punishment are not confined to the more esoteric parts of this report. In many tables in this report, data are presented which express crime or punishment indices in relation to population statistics. There is merit in such a presentation, and it is now standard practice to present crime data in this way. Even so, it must be recognised that presentation in this way is a compromise. Underlying such an exposition is an emergent theory about rates of offending, and possibly about rates of victimisation, which suggests that all people are equally likely to commit offences in similar numbers. Probably no-one would subscribe to this position, but it is implicit in the choice to present crime and punishment data per 100 000 population.

The obvious refinement is in terms of age and gender. Age distributions of a population are closely linked to its level of economic development. Thus, one should present "age and gender corrected" crime rates. Yet to do this implies similar relationships between age and criminality across societies. Is it realistic, for instance, to assume a similar relationship between age and crime in predominantly rural and predominantly urban societies, to say nothing of differences in policing styles which result in different crime patterns?

At the extremes, the choice lies between on the one hand presenting crime and punishment data "straight", i.e. in absolute numbers, and on the other correcting for all those social factors which are believed criminogenic. To do the first explicitly rejects all social and demographic variables which impact upon crime. The second assumes what it sets out to demonstrate: by incorporating all social variables which are statistically associated with crime levels, the logical end result is *no* national differences in crime and punishment, because all the criminogenic factors have been taken into consideration. There is some merit in the latter approach, but it is prone to much error. The statistical problem of multicollinearity is a major stumbling block. In essence, this means that the social factors identified as criminogenic may be spurious, insofar as they are statistically associated with the real (and possibly unmeasured) social variables which are causal.

The thrust of this short chapter pursues neither of the extremes set out above. It seeks to look at basic relationships and to identify changes over time in Europe and North America. If a change is universal, however unreliable individual national data may be, there is either a general change in the behaviour concerned or a general change in the response to it. It also seeks to identify a few relationships between demographic and social variables and crime and punishment indices.

3. Relationships amongst crime rates

A basic question concerns whether it makes sense to talk about high crime societies, i.e. whether societies with high rates of one recorded crime also tend to have high rates of the others. If one takes 1985 data for each crime type included in the Third Survey, and expresses it in relation to national population size, how are these rates intercorrelated? Table 16 sets out some of the relationships, specifically those for the crimes included in the national profiles to be found in Part IV: intentional homicide, assault, rape, robbery and theft. The first conclusion worthy of note is that recorded rates of crime are positively associated. Around three-quarters of all correlations between crime rates were positive, and *all* those which are statistically reliable are positive. Thus countries high on one type of crime tended to be high on others. However, some crime types were much more closely inter-related than others. Thus, for instance, fraud and drug crimes were most highly associated with other crime types. Assault, embezzlement and non-intentional homicide were among offences only tenuously related to other crime types. Given the generally positive relationships between rates of different crime types, it should always be borne in mind that the measures are not necessarily of general national lawlessness or law-abidingness, but may equally reflect the inclination to record crime.

Varimax factor analysis was undertaken to further explore relationships. Two interpretable factors emerged (with eigenvalues greater than two). The first was, obviously, that of general levels of recorded criminality. The second factor contrasts offences like embezzlement, drug offences other than possession, and fraud with offences like robbery and intentional homicide. While difficult to interpret, this can perhaps plausibly be regarded as indicating national police tendency to intervene. Robbery

and murder are mainstream offences, about which there is little argument about the appropriateness of official intervention. Fraud and assault have in common the possibility that they are part of the hurly-burly of professional and personal life respectively, against which citizens should protect themselves. Thus the factor could be labelled one of differential police responsiveness to regulate human relationships.

Table 16. Intercorrelations among selected crimes, 1985.

	Intentional Homicide	Assaults	Rape	Robbery	Theft
Intentional Homicide		-	-	-	-
Assaults			xx	-	xx
Rape				-	x
Robbery					xx

Notes

- correlation not significant at p = .01, one-tailed test.

x p < .01, one-tailed test.

xx p < .001, one-tailed test.

Total n = 28, individual comparisons based on different n's.

Table 17 represents the correlations between crime rates in 1975 and 1980 against those in 1985. It addresses the question of whether high recorded crime countries tend to be consistently high, over a period of time, relative to other countries. It will be seen that all the correlations were positive, which means that there was a tendency, for all crime types, that countries tended to remain high or low across the five year period. This was most marked for rapes and drug offences.

Table 17. Correlations between crime rates in 1975 and 1980 against 1985.

	1975 vs 1985	1980 vs 1985
Intentional Homicides	+.61	+.63
Non-Intentional Homicides	+.48	+.18
Assault	+.12 +.86	+.26 +.92**a
Drug Offences	+.89 +.29	+.85* +.96**a
Rapes	+.86*	+.73*
Kidnappings	.	+.03
Robbery	+.56	+.76*
Theft	+.80* +.58	+.63 +.82*a
Fraud	+.82*	+.89**
Total Crime	+.51	+.51

Notes

a Two figures appear because of changes in questions between Second and Third Surveys, both possible comparisons being featured

* $p < .01$, one-tailed test

** $p < .001$, one-tailed test

Total $n = 28$, individual comparisons based on different n's.

Table 18 sets out data on percentage change in recorded crime per 100 000 population for 1975 (gleaned from the Second United Nations Crime Survey) and for 1985 (gleaned from the Third Survey). It will be noted that a range of experience is reflected, but that the data are liable to change in both directions. There are some countries which have experienced notable reductions in recorded crime, whether for substantive or recording reasons.

Table 18. Percentage change in total recorded crime / 100 000 population 1975-1985.

	Percentage Change				
	Total	Int Hom	Rapes	Robbery	Theft
Austria	+73*	–15	+2	+45	.
Canada	–5*	–7	+789	–4	+165*
Czechoslovakia	–11	+38	–13	+90	.
Denmark	.	+236	.	+125	.
Finland	+199*	–56*	–24	–26	+22
France	+81	.	+73	+1512*	–43*
FRG	+47	–4	–12	+53	+122*
Greece	+44	+50	.	+170	.
Italy	–30*	+48*	–64	+600*	.
Netherlands	+130	+67	.	.	+248*
Norway	+86*	+50	+93	+100*	+128*
Poland	+46	–5	–2	+2122*	+41
Portugal	–7	.	.	.	.
Spain	+296	+300	.	+11118	.
Sweden	+32	–58*	+28	+59	+240
United Kingdom					
-England/Wales	+70*	–24	+76	+139	+54
-N.Ireland	+71	–76*	+92	–9	+85*
-Scotland	+249*	–69*	+38	+30	+46*
USA	+527*	+426	+788	+509*	.

Note

* Denotes a discrepancy between 1980 figures between Second and Third Surveys, so this change should be properly treated with even more than the usually appropriate circumspection.

The responding countries noted the number of police officers in their country. It was thought to be of interest to look at the relationships between rates of crime and police strength. Because of the substantial amount of missing data on police strength, no individual correlation was statistically reliable. Nor did the pattern show that crimes which are intensive in police investigation time were more frequent in countries with larger police forces in relation to the national population. It should not be surprising that police strength is not associated with crime rates, both because of the inadequacies of the data and because of the typical criminological finding that more police time is spent on public service than crime investigation. Nevertheless the conjecture that police style is reflected in national crime patterns which are consistent over time remains tenable, and was voiced above.

4. Prison population: relevant rates

It was noted above that the expression of crimes and prison population in relation to national population involves an emergent theory of crime and punishment. The provision of relevant rates occur in the pertinent sections of part two of this report. Here it should be noted that the total numbers incarcerated in relation to national population has declined between 1975 and 1985 in all countries in which it is possible to make that comparison. The conclusion should be exceptionally tentative, given that the basis of completion of Second and Third Surveys was obviously different for several countries, such that the figures for the overlapping year between the two surveys (1980) was sometimes substantially different.

An alternative way of expressing crime and incarceration is in relation to each other. This is done as Table 19, and shows a wide range of rates, no doubt at least in part as a result of the relative inclusiveness of the scope of recorded crime. It is not the case that countries which are high users of custody in relation to recorded crime are high users in relation to national population (the Netherlands is the obvious example). This invites the question of the relationship between the tendency to record much crime and tendency to incarcerate. Since an event only becomes available as a trigger for processing an offender once it is recorded as such, there is a case for saying the rates below are at least as sensible as a basis for describing a country's use of custody as the more conventional rate. It will be noted that for seven of the eight countries where a comparison is possible, the number detained per recorded crime has decreased. The exception is Scotland. Thus, whether the chosen rate is imprisoned population / 100 000 population or imprisoned population / 100 000 crimes, there seems to have been a reduction in the use of imprisonment in Europe during the decade 1975-1985.

Table 19. Detained population / 100 000 recorded crimes 1975 and 1985

	1975	1985
Austria	.	1530
Bulgaria	.	29969
Canada	.	1053
Cyprus	1436	.
Finland	2628	562
France	1361	617
FRG	1761	1148
Gibraltar	.	614
Greece	1549	814
Hungary	.	9185
Ireland	2213	.
Italy	1548	1138
Netherlands	711	.
Poland	27060	13942
Spain	4659	.
United Kingdom		
-England & Wales	1870	1030
-N.Ireland	.	2870
-Scotland	2130	5200
USA	3162	.

5. Filtering through the criminal justice process

Nations vary in how the population of those suspected relates to the population of those convicted. Table 20 shows, for 1985, the number of those suspected, prosecuted, and convicted. It is not necessarily the case that the number should become smaller as one progresses through the system, because of the role of private prosecutions and other means by which a conviction is reached without a person ever being classified as a suspect. However, the table is useful for two reasons: first it demonstrates the number of citizens per 100 000 population who are officially processed in some way, and in that way the penetration of the criminal justice system into the lives of citizens as offenders or putative offenders; second it demonstrates the way in which the numbers of those found guilty relate to those suspected.

It will be noted that the "criminal justice filter" operates quite differently in different countries, with, for example, some countries (like Hungary and Northern Ireland) having as many people convicted as prosecuted, and others (like Italy and Poland) having great attenuation of the population from the stage of prosecution to the stage of conviction. Had all the caveats been entered, the footnotes would be longer than the Table itself. The point to be demonstrated is merely that the filter does appear to operate, for recording or other substantive reasons, differently by country.

Table 20. Suspects, people prosecuted and people convicted per 100 000 population

	Suspected	Prosecuted	Convicted
Austria	.	.	1 121
Bulgaria	402	347	291
Canada	2044	.	.
Cyprus	983	127	.
Czechoslovakia	1037	759	.
Denmark	842	2435	2319
Finland	.	5876	.
France	1704	.	.
FRG	2121	.	1183
Greece	2829	.	1226
Hungary	802	582	570
Italy	796	1148	195
Malta	.	95	101
Netherlands	1770	1523	.
Norway	310	386	.
Poland	836	836	428
Portugal	485	.	.
Spain	431	.	.
Sweden	1114	2812	2013
United Kingdom			
-England/Wales	.	1036	1176
-N.Ireland	634	584	609
-Scotland	.	4041	3648
USA	31471	121	.
USSR	2198	.	1615
Yugoslavia	1186	745	494

6. The dynamics of differentiation - women and juveniles

A matter of some contentiousness within criminology is whether the system filters out differentially by age and sex. If such differentiation were to be found, it is clear that there are many possible reasons for it. However, the first step must be to demonstrate whether there is such differentiation.

Data are available from four stages of the criminal justice process: suspicion, prosecution, conviction and imprisonment (numbers in prison at any one time, rather than numbers admitted). What are presented in Table 21 are ratios of men to women in 1985 by country. Thus, taking the Austrian entry, it will be seen that no ratio can be calculated in respect of suspects or those prosecuted. The "6" in column 3 means that in Austria in 1985, six adult males were convicted for every adult female. The "18" in column 4 shows that the composition of the Austrian prison population is eighteen men for every woman.

Perhaps we should remind ourselves of what we would expect if men and women were to be equally embroiled as suspected or established offenders as men. We would expect all the numbers in Table 21 to be one. However, no number is less than four. This means that there is no offender-related statistic captured by the Survey where fewer than four men are involved for every woman. The relative consistency of the figures may excite hope that something stable is being measured here. Certainly, comparing national ratios in this way gets round many of the problems of national comparison, since both terms in each ratio have been compiled in the light of the same national conventions.

Table 21. Ratio of males/100 000 male population to females /100 000 female population, suspected, prosecuted, convicted and in prison

	Suspected	Prosecuted	Convicted	In Prison
Austria	.	.	6	18
Belgium	.	.	.	14
Bulgaria	.	6	6	10
Canada	6	6	.	9
Cyprus	12	12	.	52
Czechoslovakia	6	7	.	.
Denmark	.	7	7	.
France	4	.	.	18
FRG	4	.	6	.
Greece	.	.	11	21
Hungary	7	8	8	.
Italy	.	.	6	12
Malta	.	17	14	.
Netherlands	8	.	.	.
Poland	7	7	8	.
Sweden	5	.	6	24
United Kingdom	.	.	6	21
USA	5	.	.	.
USSR	.	.	7	.
Yugoslavia	13	6	7	.

It is clear that, as one progresses further into the system, the numbers change so that more men are involved for every woman. A way of illustrating this in relation to the data set out above is to note that of the nine countries where the prison ratio is available, and at least one other, the prison ratio is always higher. Women are certainly filtered out of imprisonment, and seem to be progressively filtered out in the system generally. The evidence for filtering out of imprisonment was almost as great in 1975. The most plausible reasons for this are gender discrimination in criminal justice or differences in the type of offence committed, with women committing fewer offences demanding imprisonment. The issue is important, in that one school of thought suggests that equality in criminal justice representation is a measure

of women's equality more universally. From such a perspective, it matters little whether the source of the inequality is offence or processing. *If* the perspective is accepted, there has been little or no progress towards equality over the last decade.

Moving to the consideration of differential filtering by status as adult or juvenile, Tables 22 and 23 set out the relevant data.

Table 22. Percentage of males suspected, prosecuted, convicted and incarcerated, who are juveniles, 1985.

	Suspected	Prosecuted	Convicted	Incarcerated
Austria	.	.	9	2
Belgium	.	.	.	6
Bulgaria	.	7	7	5
Byelorussia	.	.	10	.
Canada	19	26	.	2
Cyprus	6	6	1	33
Czechoslovakia	8	8	.	.
Denmark	.	13	11	.
France	12	.	.	6
FRG	12	.	18	.
Gibraltar	.	.	.	5
Greece	4	.	6	6
Hungary	11	10	10	.
Italy	.	.	3	6
Malta	.	7	8	.
Netherlands	18	15	8	.
Poland	10	19	6	.
Sweden	28	.	23	8
United Kingdom				
-England & Wales	.	14	29	6
-N.Ireland	11	10	10	1
-Scotland	.	32	32	39
USA	16	.	.	.
USSR	.	.	9	.
Yugoslavia	5	6	6	.

The juvenile contribution to those processed by criminal justice systems varies widely. Relevant variables include the age of criminal responsibility, labelling of juvenile institutions so as to exclude them from the penal system, and the use of other distinctive procedures for juveniles which disguises the penal nature of the processing. There is no obvious filtering out of juvenile males as there was with adult females in Table 21.

Table 23. Percentage of females suspected, prosecuted, convicted and incarcerated who are juveniles, 1985.

	Suspected	Prosecuted	Convicted	Incarcerated
Austria	.	.	6	2
Belgium	.	.	.	15
Bulgaria	.	4	3	3
Byelorussia	.	.	2	.
Canada	19	38	.	1
Cyprus	3	2	.	11
Czechoslovakia	9	8	.	.
Denmark	.	10	8	.
France	8	.	.	10
FRG	12	.	12	.
Greece	.	.	1	9
Hungary	10	8	8	.
Italy	.	.	1	5
Malta	.	19	19	.
Netherlands	10	.	.	.
Norway	.	.	.	24
Poland	4	9	3	.
Sweden	30	.	24	5
United Kingdom				
-England & Wales	.	10	36	2
-N.Ireland	7	6	6	3
-Scotland	.	19	19	23
USA	22	.	.	.
USSR	.	.	4	.
Yugoslavia	5	2	3	.

As for Table 2, the picture for juvenile females (Table 23) does not present clear evidence of the general filtering out of females from criminal justice. As for males, there are some countries where those classified as juveniles constitute a high proportion of those processed. Scotland, Malta, Poland and Canada are instances, although the picture differs at different stages.

The position appears to be as follows: there is clear filtering out of adult females, but no clear filtering out of juveniles of either gender, taking each gender separately. However, since the basis of comparison for the juveniles was *same sex* adults, the possibility remains of a differential filtering out of juvenile females. This was tested by taking the figures from Tables 22 and 23 and expressing figures in the equivalent cell as a ratio. Thus, for example, in the "Austria conviction" cell, Table 22 tells us that 9% of convicted males were juveniles, and Table 23 that 6% of convicted females were juveniles. The male/female ratio is thus 1.5. These ratios would average 1 if juveniles were treated in the same manner as adults by gender. We already know women are less involved as adults and are filtered out. A ratio of 1 would mean that the same was true for juveniles. A ratio of more than one would mean that juvenile females are even less involved than juvenile males. The average (median) ratios for those suspected, prosecuted, convicted and incarcerated respectively are 1,1, 1,6, 1,7 and 1,4. Thus juvenile females do appear to be officially processed less than juvenile males, on top of the difference observed amongst adults. Being a female and juvenile is a combination meaning little official processing as a putative offender, especially at the prosecution and conviction stages.

7. Crime, punishment and development variables

Two variables were selected as being generally available from the World Bank and as reflecting aspects of development. These were population density and number of television receivers per head of population. Table 24 represents correlations between indices of crime in the rows and the social indices in the columns. They are presented both as direct correlations (both variables being taken from 1980) and lagged (with the social variable taken from 1980 and the crime variable from 1985). This lagging is done because social variables may be thought to have an effect after some time, rather than immediately. Table 25 also displays correlations performed on the same basis but for selected variables of prison use, namely number of admission and average sentence length.

Table 24. Television ownership and population density in 1980 and crime rates in 1980 and 1985

	TV Sets per head	Population Density
Intentional Homicide		
1980	+.40	+.24
1985	+.71*	–.02
Non-Intentional Hom.		
1980	–.06	+.22
1985	+.23	–.32
Assault		
1980	+.68*	–.40
1985	+.77** +.83*	–.18 –.24 a
Rape		
1980	+.68*	+.16
1985	+.85**	–.29
Drug Offences		
1980	+.54	–.35
1985	+.73* +.48	–.42 –.32 a
Robbery		
1980	+.85**	–.33
1985	+.47	–.21
Kidnappings		
1980	–.07	–.13
1985	+.91*	–.41
Theft		
1980	+.80**	–.09
1985	+.55 +.85**	–.09 –.17 a
Fraud		
1980	+.40	–.33
1985	+.66*	–.32
Bribery		
1980	–.16	+.06
1985	+.06	+.60
Other Crime		
1980	+.10	–.04
1985	+.65	–.55
Total Crime		
1980	+.71*	–.19
1985	+.89**	–.26

Notes
* $p < .01$, one-tailed test
** $p < .001$, one-tailed test
Total n = 28, individual comparisons based on different n's.
a Two numbers are given because of changes in questions between Second and Third Surveys. Both possible comparisons were made.

Table 25. **Television ownership and population density in 1980 and admissions to prison and average sentence length, 1980 and 1985.**

	TV sets per head	Population Density
Sentence Length		
1982	–.37	–.16
1984	–.37	–.10
1986	–.37	– 21
Prison Admissions		
1980	+.39	+.38
1982	+.66*	–.02
1984	+.62	–.00
1986	+.77*	–.09

PART IV
CRIMINAL JUSTICE PROFILES

BELGIUM

I. Background

Belgium was part of France from 1794 to 1814. It was united with the Netherlands from 1814 to 1830 and proclaimed its own new constitution in 1831. The basis for the criminal law of independent Belgium was originally the French penal code of 1810. A new penal code dates from 1867. A separate military penal code was adopted in 1870. A complete revision of the penal code is currently under way, a draft code having been prepared in 1986.

The gendarmerie, the criminal or judicial police and the municipal police forces together comprise the police forces of Belgium. The first and third are responsible for general police functions. The second has the principal duty of investigating criminal offences. The Ministry of Justice is responsible for criminal police agencies, which operate under the supervision of the prosecutorial authorities.

A prosecutor has the option of either dismissing a case (due to lack of evidence or on the basis of the opportunity principle). In the case of petty offences, a prosecutor may offer an offender a "transaction". This option is primarily offered in cases of petty traffic violations. It involves either some sort of reparation or the payment of a fixed summary fine.

Belgium has a rather elaborate system of sanctions, divided into so-called police matters, correctional matters, and in the case of more severe offences (felonies), criminal matters. Since 1963, intermittent custody may be imposed. Week-end imprisonment may be in the form of serving sentences up to two months, and "semi-custody" for sentences up to six months. In the case of long term prisoners, the prison authorities may convert imprisonment into partial detention in advance of early release.

The minimum age of criminal responsibility is 18 years. This limit may be lowered to 16 years in particular cases. Otherwise, all offenders below 18 are dealt with outside the criminal justice system.

II. Statistics

II.1 Selected Offences

According to the 1984 police statistics, 231 328 offences were reported (excluding attempts). The corresponding number in 1986 was 253 432 (+10 %).

Three hundred and twenty-two homicides and 8 724 assaults (including minor assaults) were reported in 1984. No data are available on robbery and theft.

II.2 Sanctions

In 1983, 62 people were sentenced for intentional homicide, 4 159 for assault and 7 325 for theft. Data for 1984 were not yet available at the time of the Survey.

According to the Belgian response to the Third United Nations Survey, a total of 57 099 adults were sentenced by correctional and criminal courts in 1983. Of those sentenced, 42 % received fines and 10% suspended fines. 13 % were sentenced to prison, and 1 % to internment. Other sentences are probation and suspended imprisonment. From the figures reported in the response to the Third Survey, it is not entirely clear whether someone sentenced, for example, to fine *and* suspended imprisonment will be counted once or twice.

On 30 December 1986, 6 579 people were in prison. Of these, 32 % were awaiting trial, 43 % were sentenced, 2 % were serving imprisonment for non-payment of fine and 23 % were in prison for some other reason. In Belgium, several groups of people may be incarcerated as a measure of social defence; these include mentally disordered offenders, vagrant foreigners and habitual offenders. During

the year, 20 102 people were admitted to jail and 5 739 to preventive detention. Most of those placed in preventive detention stayed in custody for a month or less (65 %), including 26 % who were detained for between one and five days only. 1,8 % stayed in custody for more than 6 months.

In 1986, 925 adults were paroled from prison, of whom 870 had been sentenced for correctional matters. Of these, 7 % had completed one-third of their term, 52 % one-half, and 41 % two-thirds.

II.3 Personnel and resources

The response provides data on resources only in respect of prison. In 1986, budgetary resources for prison administration amounted to 4 317 million Belgian francs (127.7 million USD[4]). This represents an increase of 27 % from 1982. Belgium has 32 prisons totalling 7 267 places. Prison staff consists of management staff (9 %), custodial staff (85 %), treatment staff (5 %) and other staff (1 %).

III Selected Issues

Remand prisons are increasingly overcrowded. Relief has been sought through early release, in particular of those sentenced to one year or less.

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[4] 1 USD = 33.810 Belgian francs.

BULGARIA

I. Basic principles

The Bulgarian system of criminal legislature had taken shape by the end of the nineteenth or the beginning of the twentieth century under the influence of the Hungarian Code of 1878, and the principles worked out by Russian criminal law. The new criminal legislation of Bulgaria has been in force since 1968, and has more than once undergone revisions and additions as the socialist state system and democratization of society continued to evolve. The Code of Criminal Procedure has been in force since 1 March 1975.

The law of criminal procedure, as is the case in the corresponding branches of law of other socialist countries, embodies democratic features and principles, such as socialist legality, the criterion of objective truth and presumption of innocence, the right of the accused to a defence, the principle of evaluation of evidence based on the inner conviction of the investigator and the court, and participation of the representatives of the public in the legal proceedings.

The criminal procedure begins with the initiation of a preliminary legal action. The investigation may be conducted in the form of a preliminary investigation, an inquiry, or simplified procedure (in a few categories of cases which concern minor offences).

In accordance with the Decree of the State Council of 17 July 1979, the preliminary investigation is conducted by a single centralized investigation apparatus that is subordinated to the Ministry of Internal Affairs and comprised of the head of the board of investigation under the Ministry itself and district-level investigation departments. An investigator of any rank may be appointed to, or relieved of, this post only by a joint order of the Chief Prosecutor and the Minister of Internal Affairs.

An investigation should be carried out within two months in cases which come within the jurisdiction of the district courts and the Supreme

Court, involve army officers and generals, as well as minors and people who suffer from grave illnesses that hinder them from exercising their right to defence on their own. The inquiry is carried out by inquiry officers appointed from the ranks of sergeants of the district departments, as well as by the finance, health, and other administrative bodies within the scope of their jurisdiction.

The preliminary legal procedure is carried out under the supervision of the Chief Prosecutor and subordinate public prosecutors of lower rank whose number in 1986 amounted to 492. The public prosecutors are invested with the authority to give compulsory directions with regard to the way an investigation is being conducted, to dismiss the case, and to submit cases completed by the investigation for examination in court. In the latter eventuality, the public prosecutor prepares an indictment as the grounds for the court hearing. Criminal justice is exercised by the court alone. All cases are examined by the courts of the first instance: the district courts, the regional courts (cases of crimes against the state and grave crimes) and the Supreme Court (cases of malfeasance committed by the country's top officials, judges, public prosecutors, and investigators). On complaints lodged by the parties, or on protests made by the public prosecutors, cases are examined by way of cassation in a superior court (the regional courts and the Supreme Court of Bulgaria). In administering justice, all the judges are independent in their actions and subject to the law alone.

In cases of criminal actions that come under the jurisdiction of the comradely courts or local committees against anti-social conduct of juvenile offenders and minors, no criminal proceedings may be initiated, and a legal action already taken has to be terminated. The right to dismiss a case is given to the public prosecutor.

In accordance with legislation, a person becomes responsible for his or her criminal actions at the age of 14. From the age of 18, a person who has committed an offence punishable by the criminal law is considered an adult.

II. Statistics

II.1 Specific crimes

Premeditated murder. In 1986, 313 cases of premeditated murder were recorded, which is considerably lower than for the period between 1980 and 1985 (the annual totals were 372, 351, 374, 348, 361 and 341 cases, respectively). Altogether, 336 people were convicted of premeditated murder in the year in question. For Sofia, this corresponded to a crime rate of 2,3 per 100 000 inhabitants.

Assault. No data available.

Rape. In 1986, 662 cases or rape were recorded throughout the country (the amount has increased each year since 1980). During the same year, 480 people were convicted of rape. The rate of rape in Sofia was 7,1 per 100 000 inhabitants.

Robbery. In 1986, 587 cases of robbery were recorded throughout the country (the amount has increased constantly since 1980). 398 people were convicted of robbery. The robbery rate in Sofia was 11,8 per 100000 inhabitants

Theft (including petty larceny). 13 688 cases of theft were recorded (the amount has increased constantly since 1980). 6 997 people were convicted of theft. The crime rate in Sofia was 6,5 per 100 000 inhabitants.

II.2 Sanctions

The crime statistics available include data on the state of crime and the activity of the law enforcement agencies. However, there is no integrated statistical reporting. A section for operational accounting and reporting has been established at the Main Board of the People's Militia. This section analyzes classified data on the state of recorded crime and the activities of services and bodies of internal affairs. The Central Statistical Agency assembles data on the activity of other law-enforcement organs, namely, the courts, office of public prosecutor,

comradely courts, committees against anti-social conduct of juvenile offenders and minors, as well as data on the number of recorded crimes in absolute terms per 10 000 inhabitants) using various classification criteria (e.g., offences committed by criminal groups), together with criminological and socio-demographic information about convicted people. The data thus collected are analyzed annually by the Criminological Research Council at the Chief Prosecutor's Office and published in the year-book "Crimes and convicted persons". Bulletins on the activity of the courts, the office of the public prosecutor, and comradely courts which are published for official use.

The Criminal Code provides for the following penal sanctions: capital punishment; imprisonment for a term of 1 month to 15 years (up to 20 years for especially grave crimes) with the sentence served in a prison or correctional-labour dormitory; correctional labour (without imprisonment); fines; compulsory settlement; internal exile; and public censure. In 1986, 53 % of the total number of convicted adult offenders were sentenced by the courts to imprisonment, 26 % to a court warning, 11,3 % to correctional labour, 7 % to fines, 2 % to compulsory settlements, 0.1 % to public censure, and less than 0,09 % to capital punishment.

II.3 Personnel and resources

The response of Bulgaria to the Survey contains data on the number of workers employed by the office of the public prosecutor: a total of 492 in 1986, of whom 337 (about 69 %) male). Data are also provided on the size of the personnel of corrective-labour institutions: in 1986, there were 151 administrative staff, 335 health care and service personnel, 613 others, and 1 518 guards in 29 penitentiaries for adult convicts; in the two institutions for juvenile offenders, the corresponding numbers were 8 in administration, 25 in health care and service, 19 "others" and 57 guards.

No data is provided on the financial resources available to the law enforcement bodies.

III. Selected issues

Criminality. The Criminological Research Council at the Chief Prosecutor's Office notes that the most frequent type of recorded crime is crimes against socialist property (one fifth of the total number of crimes), primarily misappropriation and embezzlement; theft of citizens' personal property comes second, followed by crimes against the person (in 1987, about one seventh of the total number of crimes), crimes against security, against the institution of marriage, the family, and against youth. In recent years, there has been a growth of crime in the field of so called "scientific implementation of the achievements of scientific and technological progress" and in the field of foreign economic ties. In the economic field, it is also noted that there has been "a growth in the criminal activity of young people" (those under 29) with regard to malfeasance and crimes of illegal currency transactions. There is also a stable proportion of crimes committed in recent years by well-organized groups. Criminal activity is highest among people aged 19 to 29 (who comprise about half of the total number of convicted offenders), especially males.

Pre-trial detention. In accordance with the Code of Criminal Procedure, pre-trial detention of a person suspected of a crime may be used if the crime that has been committed is punishable by imprisonment or a more severe penalty, provided that the person in question has been caught in the act or immediately after, or has become known through testimony of witnesses of the crime; bears traces of crime on his body or clothes or in his home; has tried to escape, has no permanent place of residence, or could not be identified. An investigative body may detain someone for 24 hours. This term may be further extended to 10 days by the public prosecutor.

The measures of restraint envisaged by the law are a written undertaking not to leave the place of residence; bail; house arrest; and custody. The last-named measure is only applied if the agreement of the public prosecutor has been obtained, provided that the person in question is suspected of a crime for which a court can send him or her to prison for over 10 years or impose a more severe punishment, or in

cases where the crime committed is punishable by a shorter term of imprisonment but the person could not be identified, has no permanent place of residence, may go into hiding or commit another crime, or in cases where such measure is demanded by "important interests of the state". People taken into pretrial custody are confined to prisons of preliminary detention run by the investigation unit. The management of such prisons is subordinated to the top officials of the investigation units.

Criminal justice. The level of use of imprisonment as a criminal sanction imposed on adult offenders is generally characterized by stability over time; the figures for 1982, 1984, and 1986 are 55, 60 and 53 % respectively. The use of fines is also stable (8, 6 and 7 % of the total number of those convicted received fines in the corresponding years). The use of criminal punishment has tended to increase in the same years, the total number of those subjected to criminal punishment amounted to 24 631 (1982), 21 788 (1984) and 27 444 (1986), including 21 204 (1982), 18 633 (1984) and 23 239 (1986) adult males, 3 427 (1982), 3 155 (1984) and 4 205 (1986) adult females, and 1 463 (1982), 1 136 (1984) and 1 689 (1986) juvenile males. In spite of this, the number of people given suspended sentences has also increased from 1 503 in 1982 to 1 617 in 1986.

Recidivism. According to figures of the Criminological Research Council, the proportion of recidivist crime lies steadily around 20 % of the total number of recorded crimes. At the same time, this category of crime is characterized by a high proportion of special recidivism (about 50 %). It has been noted by the Council that recidivism is typical of grave crimes of violence, such as murder, rape, and robbery. The state of recidivist crime present a serious problem that demands a solution.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

I. Background

Since 1922 the Byelorussian Soviet Socialist Republic (BSSR) has been a part of the USSR as a sovereign socialist state. This circumstance determines the particularities of the criminal law of the Republic. It originates from the concepts, principles and general provisions of the criminal and criminal procedural laws established by the legislative norms of the USSR, principally by the Fundamentals of Penal Legislation and Fundamentals of Penal Procedures of the USSR and of the Union Republics. However, the sanctions for the commission of some specific crimes (except state and military crimes and a few serious offences) are provided for in the criminal law (code) of the republic. Both codes came into force on 1 April 1961, after which they have been substantially changed.

In Byelorussia, as in other republics of the Union, criminal procedure begins with action taken against a person by a state agency (an investigative body, a court or a prosecutor). It consists of the following stages: investigation, proceedings (in the original trial and before appellate courts) and enforcement of any criminal sanction which the court chooses to impose.

The investigation of crimes is carried out in the form of an inquiry. Those making such inquiries include the militia, state security agencies, frontier guards, state fire supervision bodies and the heads of corrections facilities and commanders of military units. The sphere within which these agencies are judged competent to conduct inquiries is circumscribed. The preliminary investigation of suspects is conducted by law enforcement officers and the officers of state security and prosecution agencies. Inquiries should be completed within ten days from the initiation of proceedings against a person. Where a case is to be proceeded with, all evidence is passed to the investigator, or in some special cases upon indictment to the prosecutor no later than one month after proceedings have been initiated. A case should be dismissed or

suspended within the same period thereafter. Somewhat different arrangements apply to crimes not involving great danger to the community. These are investigated by bodies of inquiry which then make written records of the evidence and pass on the results to the court for the purpose of deciding whether to take criminal proceedings against a person and to put the case before a court.

Criminal offences are adjudicated exclusively by courts, which determine the issues both of guilt and of the appropriate sanction. There are three tiers of trial courts; the peoples' courts, the judicial boards of regional courts and the Supreme Court of the Byelorussian Soviet Socialist Republic. The functioning of bodies of inquiry, preliminary investigation and courts is overseen by the institutes of prosecutor's supervision, defence, judicial appeal and judicial supervision. Judgments passed by the Supreme Court of the BSSR are not subject to appeal.

The Ministry of Justice of the BSSR and regional justice departments are responsible for the general organization and functioning of judicial bodies and the composition of the judiciary. These bodies do not, however, have the right to intervene in the process of the administration of justice itself. In adjudicating cases, the law permits account to be taken of the gravity of the offence committed and the circumstances and personal characteristics of the offender. Courts, prosecutors, investigators and bodies of inquiry (with the consent of the prosecutor) have the discretion to discontinue proceedings or to impose some milder penalty than those provided for the offence concerned. A person is deemed criminally responsible by the age of 16, and in some serious offences by the age of 14. However, rehabilitative measures may take the place of criminal sanctions for those under 18.

II. Statistics

Data are gathered by law enforcement agencies and by the State Committee on Statistics of the BSSR. Since 1983 the Republic has experienced an increase in recorded crime. There was a total of 58 272 recorded crimes in 1985, an increase of 28,3 % over 1980. The 1986 figure fell back somewhat to 54 326, which nonetheless represented an

increase of 19,6 % over 1980. There was a further fall in 1988 to 48755 crimes, representing 478 crimes per 100 000 population.

II.1 Selected Offences

Intentional homicide and attempts. There were 339 recorded cases of intentional (premeditated) homicide in the BSSR during 1986. This includes attempts. This represents 3 crimes per 100 000 population. The clearance rate is 95,6 %. The offence is primarily punishable by imprisonment.

Assault. This term is not found in the Criminal Code of the BSSR, or in its statistical reports. In 1986, 1 160 people were convicted of an offence that broadly corresponds to the definition of "assault" used in the United Nations Survey. Of these, 89,7 % were adult males, 7,6 % adult females, and 2,7 % juveniles.

Theft. In 1986 the number of recorded crimes of this type was 16 821 (169 per 100 000 population). This included aggravated theft. The clearance rate for theft was 74 %. In 1986, 4 168 people were convicted of this type of crime, of whom 60,9 % were adult males, 17,5 % adult females and 21,6 % juveniles.

II.2 Sanctions

In accordance with the Criminal Code of the BSSR, the punishments available are as follows: imprisonment, exile, banishment, compulsory labour without deprivation of liberty, prohibition from certain posts or occupations, fine, dismissal from office, public reprimand, direction to medical-labour preventive clinics (this is for vagrants, beggars and other people with parasitic life-styles) and also seizure of property and deprivation of military rank and special titles. Capital punishment is possible but very seldom used. As with the criminal codes of other republics of the Union, the Criminal Code of Byelorussia provides for different types of punishment and maximum and minimum sanctions for each type of offence. The court determines the type and term of the sentence taking into account circumstances of the case and characteristics of the offender.

Following the tendency in Soviet criminal law to reduce the use of custody (used as a penalty for 25,6 % of adult convictions in 1986), such a sentence is increasingly being replaced by a fine (29,1 % in 1986), probation, and other types of restriction of liberty (44,9 %).

II.3 Personnel and resources

In 1986, the number of prosecutors in the BSSR (including deputies and assistants) was 873, an increase of 68 people over 1982. 77,5 % of these were male. The number of judges on 31 December 1986 was around 426. The costs of maintenance of the prosecution service is estimated at 5 593 900 rubles (9,3 million USD[5]) and the maintenance of judicial bodies is estimated at 4 044 900 rubles (6,7 million USD).

III. Selected Issues

Pre-trial Imprisonment. According to the criminal procedural of the BSSR, pre-trial imprisonment (termed "taking into custody") is one of the options available in criminal proceedings. It can be used by a prosecutor, an investigator, an inquiry body with the consent of the prosecutor and also by the court if there are reasonable grounds to consider that the accused may abscond or hinder the process of collecting evidence relating to the criminal case or may continue his criminal activities; it can also be used as an instrument of execution of the sentence (article 84 of the Criminal Code of the BSSR).

During investigation, the term of pre-trial imprisonment is limited to two months, which can be prolonged to four months with the authority of a regional prosecutor and to nine months by the General Prosecutor of the USSR. Of course, these periods may be cut short by the conclusion of the relevant trial and sentencing process. In special circumstances pre-trial imprisonment may be imposed upon someone not charged with a crime. At the expiry of this period, the person concerned must be charged or released.

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[5] 1 USD = 0,5995 rubles

Someone on whom pre-trial imprisonment is imposed is kept in special isolation wards up to the moment that the sentence comes into force. If acquitted, or if a non-custodial sanction is imposed, the person concerned is released directly from the court.

In recent years in the BSSR, as elsewhere in the Union, there has been a tendency to reduce the application of pre-trial imprisonment in favour of the application of some other measures like a written promise not to leave the area and bail, with public organisations, labour collectives or individuals acting as surety for such bail.

Recidivism. In 1988 the proportion of recidivism in the frame of crimes constituted 14,2 %, 9,2 % more than in 1987. Its causes are identical with those in other republics, and concern difficulties that released offenders encounter when they seek employment and permission to register at their previous place of residence.

CANADA

I. Background

The federal government derives its power under the provisions of the Constitution Act of 1867 (now included in the Constitution Act, 1982) to enact criminal law and procedure. However, the ten provinces and two territories are delegated power to enforce laws and administer criminal justice, including the establishment of law enforcement agencies, courts, and correctional institutions. Canada's public institutions are influenced by the English system. The judiciary is independent of the legislative and executive powers at both the federal and provincial levels. The administration of justice at provincial levels encompasses both civil and criminal matters.

The development of Canadian policing was strongly influenced by practices that emerged in England. As elsewhere in Canadian society, French influence is also noticeable, markedly so in one province, Quebec. The earliest Canadian police were the Toronto (1859) and Montreal (1865) municipal forces. In 1867 and 1868, following Confederation, the provincial police forces emerged alongside a federal police force, now called the Royal Canadian Mounted Police (RCMP) to enforce Canadian legislation relating to criminal law, customs and excise matters, and the native Indians. The Police of Canada Act 1868 authorized the establishment of a separate federal police force to protect federal property such as government buildings and naval shipyards. However, this force was absorbed by the RCMP in 1920. Provinces soon enacted legislation to create their own police forces - Quebec and Manitoba (1870), British Columbia (1871), Ontario (1909), New Brunswick (1927), Nova Scotia (1928), and Prince Edward Island (1930). Alberta and Saskatchewan, which entered into Confederation in 1905 do not have provincial police forces.

In 1986, the Canadian police force consisted of 54 604 full-time officers who worked at the federal (12,8%), provincial (26,2 %), and municipal (59,6 %) levels. The remainder is comprised of several other police

agencies such as the National Harbours Board Police, the Canadian Pacific Railways Police, and the Canadian Pacific Investigation Service. Other police departments in Canada include native Indian forces which police native Indian reserves and communities. The largest of these forces is the Amerindian Police Service (founded 1978) which polices 20 reserves in Quebec, employing 70 constables, and the Dakota-Ojibway Tribal Council Police Force which employs 24 constables.

In 1986, there were approximately 450 municipal police departments to administer local laws, the Criminal Code, provincial statutes, municipal by-laws and in certain instances federal statutes such as the Narcotics Control Act. The size of these departments varies, with personnel numbering between 2 and 6 000 officers. There are three provincial police forces operating in Canada today. They are the Ontario Provincial Police, the Quebec Police Force (Surete de Quebec) and the Newfoundland Constabulary. The Canadian federal police force, the Royal Canadian Mounted Police (RCMP), enforces federal statutes such as the Narcotic Control Act, the Food and Drug Act, and the Indian Act. In 1985-86 the RCMP employed approximately 15 200 personnel.

When a police officer makes an arrest with or without warrant, the officer in charge of the station must determine the circumstances of such detention. The officer in charge can release a suspect on condition that the suspect would appear before a court with or without a summons, or by entering into a recognizance with or without sureties. However, the officer in charge cannot release a suspect arrested with a warrant unless the warrant is endorsed by the issuing authority. The decision of the officer in charge depends to a large extent on the nature of the offence. The Criminal Code (1892) categorizes criminal offences as (1) summary conviction offences (least serious and carrying slight punishments), (2) indictable offences (serious offences which carry heavy punishments), and (3) "hybrid" offences (offences intermediate between the first two categories). In the case of serious offences the Identification of Criminals Act requires that the suspect be photographed and fingerprinted. If a decision is made to prosecute a person, the accused may be detained for trial or released on bail. If the trial is delayed, the Criminal Code provides for a review process which helps to hasten the process.

In Canada, the prosecutor (known as the Crown Prosecutor) elects to prosecute a case under one of the three categories set out above (i.e., as a summary, indictable, or hybrid offence). In this sense, the prosecutor has immense discretionary power. The Criminal Code of Canada also recognizes the right of every accused person to a defence attorney. Several Provinces have legal aid programmes to provide defence attorneys for indigents.

There are two separate court systems in Canada, the federal and provincial courts. Generally, the provincial courts have a three-tiered system (Quebec Province has a slightly different organization). The tiers are, from lowest up, provincial courts, county or district courts, and the Superior Court. The provincial courts deal with most criminal cases in Canada. Most Provinces have additional courts such as the justice of the peace, juvenile courts, and family courts. The court of last resort in Canada is the Federal Supreme Court of Canada. In addition, at the federal level there is a Federal Court of Canada which is divided into a Trial Division and a Court of Appeals.

Sentencing options include fine, probation, restitution and imprisonment. The Canadian correctional system exhibits similarities with the systems of both the United States and England. The Canadian Constitution Act and the Criminal Code as well as the Prison and Reformatories Act (1970), the Penitentiary Act (1970), and the Parole Act (1958) established the framework for corrections. The custodial institutions include RCMP/municipal lock-ups, federal and provincial institutions, and community based facilities operated by federal and provincial governments, and by voluntary societies such as John Howard and Elizabeth Fry societies. Within these institutions a wide range of rehabilitative programmes are available for inmates. Non-custodial arrangements include probation, parole and other community based programmes.

II. Statistics

Canada has published annual official crime data through the Uniform Crime Reporting system since 1962. These data include crimes reported by citizens as well as crimes detected directly by the police. Various

policing agencies participate in the Uniform Crime Reporting System. These agencies include municipal police departments, the Quebec and Ontario provincial police, the Royal Canadian Mounted Police, the New Brunswick Highway Patrol, and the Royal Newfoundland Constabulary.

II.1 Selected Offences

Rates of recorded crime per 100 000 population are shown in Table 26. It can be seen that increases in rates of recorded crime have occurred over the seven year period 1980-1986 for intentional homicide, assault, rape, fraud, and kidnapping. The huge increase in rape may be explained by new legislation in 1983 which replaced the crime of rape with a more inclusive category of sexual assaults. The increase in kidnapping may also be explained by new legislation in 1983 which expanded the definition of this offence to include child abduction. The crimes of non-intentional homicide, robbery, theft, drug crimes, "other" and "total" decreased over the period. The decrease in drug crime is unique among the countries responding to the Third United Nations Survey.

Table 26. Crimes recorded by the police, 1980 and 1986, per 100 000 population (Canada).

Crimes	1980	1986
Intentional homicide	2	2
Non-intentional homicide	0	0
Assault (major)	128	140
Rape	10	81
Robbery	102	92
Theft	2774	2040
Fraud	424	513
Kidnapping	3	6
Drugs (possession)	243	154
Drugs (other)	65	66
Others	2 636	2 735
All crimes	8 988	9 338

If we examine offender based statistics, an interesting pattern emerges. Table 27 displays the rates per 100 000 population of those "arrested" or officially charged with crimes. We see that the rate for adult males has decreased, for adult females slightly increased and for juveniles, both male and female, increased. The juvenile statistics are, however, difficult to interpret. The administration of juvenile justice is guided by the Juvenile Delinquency Act (1929) and Young Offenders Act - YOA (1984). The age range treated as juvenile, and especially the minimum age of juveniles, varies widely from one province to another. Some provinces/territories such as Manitoba, Newfoundland and British Columbia have adopted 7-16 while Quebec Juvenile Courts prescribe the age range of 14-17.

Table 27. Offenders officially charged, 1980-1986, per 100 000 population (Canada).

Crimes	1980	1986
Intentional homicide	2	2
Non-intentional homicide	0	0
Assault (major)	179	278
Rape	5	30
Robbery	38	30
Theft	880	822
Fraud	132	161
Kidnapping	2	2
Drugs (possession)	208	115
Drugs (other)	49	44
Other	739	683
All crimes	2 234	2 167

Convictions: No data are available for the number of people convicted in Canadian courts. Records are kept for juveniles, however. In 1983, 115 915 juveniles were adjudicated for violations of the Criminal Code (74,9 %), provincial statutes (20,6 %), federal statutes (3,5 %), and municipal by-laws (1 %).

II.2 Sanctions

Federal corrections are administered by the Correctional Service of Canada, established in 1979, and the National Parole Board. The average daily count of federal prisoners in 1986-87 was 11 106. This included 143 female prisoners confined in the Kingston Prison for Women, the only federal female prison in Canada. The cost of maintaining an inmate per year was approximately $35,000. During the same year there were 8 265 federal inmates under parole supervision in Canada.

Sentences of two years or more are typically served in federal facilities, but there are complex federal-provincial agreements such that some federal prisoners are to be found in provincial facilities and vice-versa. Correctional facilities in the provinces vary. In 1987 there were in total 123 secure facilities and 39 open facilities. The average institutional population count in 1986-87 was 15 657 while the average probation and parole count was 69 755 during the same period.

Changes in rates of incarceration are presented as Table 28. While the derivation of these figures is complex, we can generally conclude that the rate of imprisonment according to daily average prison population has remained stable over the period 1980-1986. This is the result of two opposing trends. Admissions per 100 000 population have increased somewhat, from 446 in 1980-81 to 484 in 1986-87. Countering the effects of this, the average time served for all offences dropped from 25 days in 1982/3 to 22 days in 1986/7.

Table 28. Daily average prison rate (inmates per 100 000 population 1980/81 and 1986/7 (Canada).

	1980/1	1986/7
Awaiting Trial	14	14
Sentenced	97	91
Immigration holds	0	0

The number of juveniles placed on probation has almost doubled from 10 802 in 1984/5 to 18 364 in 1986/7. At the same time, the number of

adults placed on probation dropped from 65 550 in 1982/3 to 52 749 in 1986/7.

II.3 Personnel and resources

Canada reports the following personnel engaged and expenditure incurred in the criminal justice system during the last few years.

Police: As reported earlier, in 1986, the Canadian police force consisted of 54 604 full-time officers who worked at federal, provincial and municipal levels. The RCMP consisted of nearly 15 200 personnel. The rates of policing personnel have declined slightly over the period, from 223 in 1982 to 215 per 100 000 population in 1986. The declines have been in both male and female rates. In 1986/87 Canada spent $3.7 billion on policing.

Judicial: In 1983-84 approximately $424 million was spent on court administration at various levels. There are no national data available on the number of judges.

Corrections: In 1986-87, at the federal level the Correctional Service of Canada operated 60 institutions, employed 11 465 personnel and spent nearly $775 million on correctional services. During 1986/87 the regional and provincial governments spent $660 million on adult corrections, broken down as follows in percentage terms: custodial (82 %), probation and parole (11 %), administration (6 %), and the operation of provincial parole boards (1 %). Regional and provincial governments employed approximately 14 500 employees.

III. Selected Issues

Police-community relations programmes. One of the community based programs was the Toronto Mini-Station Project which was opened in 1983. This program, involving the opening of small police posts, was designed to provide an opportunity for increased citizen participation in crime prevention programs and to provide greater access to police services. This programme is operated by the Metropolitan Toronto Police Department. Community policing programmes are in progress in

Ottawa (a "zone policing project") and Montreal. Other projects include the team/zone policing in Halifax, the Core neighbourhood policing project in Winnipeg, a police mini-station in Fredericton, and store front policing in Victoria.

Women police officers. Although women have been working in the Canadian police force since the beginning of the 20th century, their assignments were primarily limited to clerical work, handling juveniles and female offenders or serving as jail matrons. In 1983, there were 1 460 women officers at the municipal, provincial and federal levels. This figure represents approximately 2,7 % of all full time police officers in the country. This proportion has generally not changed substantially through to 1986, with a possible decrease in women police officers per 100 000 population (from 8.91 in 1982 to 8.59 in 1986), compared with an increase in the rate of male officers from 215 in 1982 to 206 in 1986.

Native Indians and the criminal justice system. Approximately 2 % of the total Canadian population is Native Indian and Inuit. This minority population is greatly over-represented among identified and incarcerated offenders. Problems underlying this situation are thought to include serious social and personal disorganization, alcohol abuse, and low levels of education among native groups. Many efforts have been made to reduce Native Indian representation in the criminal justice system. These programmes were primarily directed by the recommendations of the National Conference on Native Peoples and the Criminal Justice System held in Edmonton in 1975. These recommendations include

(1) making available resources to native Indians services already in place for other suspects, convicted offenders, and ex-inmates;
(2) involvement of native Indians in programmes and services associated with criminal justice and native people.

Some of the programmes included the creation of Native Policing Programmes to improve Native Indian-Police relations and the quality of policing services delivered to Native Indians. Examples are the Amerindian Police (established in Quebec in 1978), the Dakota-Ojibway Tribal Council Police Program (established in Manitoba in 1978), and the Cree and Inuit Policing Program (established in Quebec in 1980). In the area of courts, programmes such as Native Courtworker

Programmes were introduced in 1962 to provide counselling services to Native offenders. Other arrangements include Justice of the Peace Programmes (to make justice more available to Native Communities), and Native Child Welfare Programmes. [Source: Primarily from Canadian Criminal Justice by Curt Taylor Griffiths and Simon N. Verdun-Jones. Toronto: Butterworths (in press)].

Crime prevention strategies. A number of programmes are in place. These include

(1) a systematic creation of foster families for delinquent and pre-delinquent juveniles, through various child welfare services and provincial/municipal authorities. Under the Canadian Assistance Plan (CAP) the federal government assumes part of the cost of these plans.

(2) Crisis intervention centres for adolescents in need of care. Again the prevalence of this type of programme varies widely according to municipality and province.

(3) Informal school programmes which provide support and direction for the use of leisure by youth, particularly those prone to delinquency. These include the "youth helping youth" programmes in many schools, and youth recreational programmes which focus on outdoor activities and sports.

(4) Reduction of opportunities to commit crime. British Columbia and Ontario have revised building codes to incorporate basic crime prevention environmental design, such as attention to lighting and strength of door frames. Vocational training for unemployed youth is also provided with the expectation that when youth are employed, there will be less opportunity to commit crime.

(5) Various police programmes for owners to secure their property through environmental design, placing identification marks on valued property, and enhancement of home security. Commercial establishments have also been part of a project to prevent armed robbery through use of basic security and crime prevention techniques.

(6) National Planning. In 1987, the federal government launched a national strategy to control drug abuse, "Action on Drug Abuse." This programme promoted the recognition of the need for a coordinated drug strategy. The department of Health and

Welfare is responsible for such overall coordination, with other departments such as corrections, external affairs, and department for youth also involved. The strategy coordinates education and prevention, enforcement and control, treatment and rehabilitation, information and research, and international cooperation.

(7) Family Violence. The federal government has provided initiative, focus and support for the development of programmes to prevent violence within the family. Financial aid goes towards short-term shelter for battered wives and children.

CYPRUS

I. Background

The minimum age of criminal responsibility in Cyprus is 12 years. The age of adult responsibility is 16 years. The police are not empowered officially to terminate criminal case by their own decision. Prosecutors have no criminal investigative duties. More than 25 % of all prosecutions are initiated exclusively at the request of a private individual. The number of reported serious offences per 100 000 population was 698 in 1986, 720 in 1985, 644 in 1984, 520 in 1983, 461 in 1982 and 423 in 1981. Most offenders are young males. The reported criminality of women is relatively low. Foreigners constitute a sizeable proportion of adult offenders especially as regards drug offences. In 1986 they comprised 42,6 % of people convicted of such offences.

II. Statistics

II.1. Selected offences

Intentional homicide. In the time period 1981 - 1986 an average of 7 homicides per year were reported and 2 people per year were convicted of homicide.

Assault. In the period 1981 - 1986 on average 734 assaults were reported annually. Of the 795 assaults reported in 1986, 71 were major assaults. In 1986 526 people were dealt with by the courts for assault offences: of these 6 % were female and 2 % were juveniles. 51 people were prosecuted for (serious) assault in 1986 and 52 were convicted. (This is not anomalous, since prosecutions initiated in one year may not be completed until the next).

Robbery. There were 52 reported cases of robbery in the years 1982 - 1986. Most of these offences took place in the largest town, Nicosia.

Of the 22 offenders charged with robbery and dealt with by the courts in 1986 all were adult males. One person was prosecuted for (serious) robbery in 1986 and one was convicted.

Theft. In the years 1981 - 1986 an average of 1 708 cases of theft were reported annually. 68 % of these offences were classified as major thefts. 48 % of the offences took place in the largest town, Nicosia. Of those charged with theft who were dealt with by the courts in 1986 7 % were female and 29 % juveniles. 460 people were prosecuted for theft in 1986 and 358 were convicted.

II.2 Sanctions

In 1986 7 767 people were brought before the criminal courts. Of these 82,9 % were convicted, 1,7 % were acquitted and 15,4 % were dealt with informally.

Of the adults convicted in 1986 478 were given a warning and 5 306 were fined. Four sentences of life imprisonment were passed.

On 30 June 1986 220 people were held in incarceration. Corresponding figures for 1984 and 1982 were 232 and 150 respectively. Of the 220 people held in 1986, 23 were awaiting trial.

There is one prison on Cyprus. No system of parole exists but prisoners receive remission of sentence according to prison regulations. Also, when they have served most of their sentence they may receive permission to work in civilian jobs during daytime and return to prison at night.

During the years 1981 to 1986 the annual number of admissions to the prison has risen from 304 to 527.

II.3 Personnel and resources

There were 81 prosecutors in 1986, 16 of whom were female. Of the 34 professional judges (one female) 7 were occupied full-time in dealing with criminal cases.

In 1986 the prison staff comprised 10 officers in a managerial position, 164 officers with custodial duties, 5 people with treatment duties and 4 officers with other duties. 6 of the staff members were female. The size of the staff is smaller in 1986 (183) than in 1984 (206) and 1982 (201).

In 1986 2 283 700 Cyprus pounds (4,97 million USD[6]) were allocated to the police, 250 000 pounds (544 000 USD) were allocated for the salaries of presidents and judges of the district courts and 1 126 802 pounds (2,5 million USD) were allocated to the prison service.

[6] 1 USD = 0,4597 Cyprus pounds.

CZECHOSLOVAKIA

I. Background

During the period between the two World Wars, the old Austrian penal code of 1852 and the Hungarian penal code of 1878 were in force in the Czechoslovak Republic. These codes were amended several times and supplemented by a number of penal statutes. The first Czechoslovak penal code was adopted as late as 1950. It was substantially changed in 1956, and replaced by a new penal code in 1961, which came into force on 1 January 1962. Some amendments have been made, notably in 1969 and 1973. The law of criminal procedure has also been changed several times, by codes adopted in 1950, 1956 and 1962. In 1961, a new statute on transgressions was adopted. Transgressions are violations of administrative regulations which cannot be punished by deprivation of liberty.

Upon identification of a suspect, a preliminary investigation is conducted by the police (the Corps of State Security or the Corps of Public Security), and by the investigative personnel of the public prosecutor's office. It is conducted under the supervision of the public prosecutor, who alone is empowered to decide whether to indict a suspect, to terminate proceedings, or to take some other appropriate action. The public prosecutor is bound by the legality principle, under which prosecution must follow in all criminal cases in which it is considered that a suspect has a case to answer. Further duties of the public prosecutor include the supervision of the observance of socialist legality on the part of the police, the courts and other state organs, as well as by social organisations and individual citizens. According to the Czechoslovak law of criminal procedure, the injured person is not empowered to initiate criminal proceedings and indictment.

As a general rule, the regional court is the court of first instance. In the regional court, cases are dealt with by a professional judge or by a panel comprising one professional judge and two lay magistrates. The district court acts as a court of appeal from the regional court. It also

has a limited role as a court of first instance. When operating as a court of appeal, the district court sits as a panel of two professional judges and three lay magistrates. When functioning as a court of first instance, the district court sits in a panel of three professional judges. In such cases, the Supreme Courts of the Czech Republic and the Slovak Republic, respectively, serve as appellate courts. The Supreme Court of the Czechoslovak Socialist Republic has, among other responsibilities, the power to resolve jurisdictional disputes between lower courts.

The Supreme Courts exercise oversight of the judicial activities of the entire court system. The management of the business of the courts is overseen by the respective Ministries of Justice of the Czech and the Slovak Socialist Republics. In cases of transgression, adjudication is made by local councils, administrative authorities (for tax, customs, health, construction etc.), and the police.

The 1961 Penal Code establishes 18 as the minimum age of criminal responsibility. Youths of 15-17 have limited criminal responsibility. They may be placed on trial where the resulting social harm is deemed significant. There are no juvenile courts in Czechoslovakia. Particular benches of judges are, however, designated to deal with cases of alleged juvenile offending. Cases of juvenile delinquency which do not appear before the courts are dealt with by educational or welfare authorities.

The prison service in Czechoslovakia operates under the supervision of the Ministry of Justice.

II. Statistics

II.I. Selected offences

Intentional homicide. There were 131 cases of intentional homicide reported during 1986. From 1980 to 1986, the annual number of intentional homicides varied between 106 and 163. In 1986, 110 offenders were convicted of this crime. The annual number of convictions between 1980 and 1986 varied between 100 and 150. Intentional homicide does not include infanticide. Some attempted

homicides are prosecuted as, for example, aggravated assaults, rapes or kidnappings.

Assault. There were 9 794 assaults reported during 1986. This figure is about 20 % higher than the comparable figure for 1980 (7 869), but about 11 % lower than that for 1984 (10 924). In the years 1980-1986, the annual number of those convicted of committing assaults varied between 5 751 (in 1980) and 7 438 (in 1985). In 1986, 6 603 people were convicted of assaults. Assaults including the infliction of bodily harm and participation in a brawl which endangers the life or health of another person.

Robbery. 1 309 robberies (including attempts and minor robberies, but not robberies directed against common property) were reported during 1986, 39 % more than in 1980 (805). In 1986 there were 1 165 convictions of robbery, 39 % more than in 1980 (710).

Theft. The number of larcenies of other people's property were provided for the years 1980-1982 only, and their annual numbers were between 7 150 (in 1980) and 7 835 (in 1982). These figures have to be supplemented by those referring to "pilferage" of socialist property. In 1986, 13 217 such offences were reported, which is about 34 % more than in 1980 (10 064). In the years 1980-1982, about 5 000 people annually were convicted of larcenies, and between 8 760 (in 1980) and 10 926 (in 1986) were convicted of "pilferage". These figures do not include minor thefts.

II.2. Sanctions

Out of the total number of offenders dealt with by the courts in 1986, 81 413 non-custodial sentences were imposed. 41 354 (51 %) of these were fines, 35 492 (43 %) suspended sentences of deprivation of liberty, and 4 567 (6 %) other forms of non-custodial sanction.

Immediate deprivation of liberty was used by the courts in 37 410 cases (31 % of all people convicted in 1986).

In 1986, three people were sentenced to death.

The size of the total prison population is not included in the national response to the Third United Nations Survey. The number of people remanded in custody is also not provided. However, the response does incorporate data on the average length of time spent in detention awaiting trial: in 1982 it lasted 12 weeks, in 1984 9,5 weeks and in 1986 7 weeks.

II.3. Personnel and resources

Data on police, prosecutors and prison staff numbers were unavailable throughout the period in question. No data are available on financial resources allocated to crime control.

On 31 December 1980, there were 1 975 professional judges in service in the country as a whole. "Over half" of these were male. 783 of these professional judges dealt with criminal matters. There were also 28 392 lay magistrates acting in civil and/or criminal matters.

DENMARK

I. Background

The Danish Criminal Code dates from 1930. The rules governing criminal procedure are found in the Administration of Justice Act 1916. Both these codes have been revised and supplemented.

Investigations concerning criminal offences are handled by the police and only rarely by other authorities (such as customs authorities). The less serious cases, normally those where the punishment stipulated for the crime is only a fine, are administered by the chiefs of police and police lawyers. More serious cases are investigated by the police, but the decision as to whether a suspect should be charged and representation before the court are in the hands of the prosecution proper. The Danish system of prosecution follows the principle of opportunity, which means that the chief of police (acting as prosecutor in misdemeanour cases) and the prosecutors may decide to close cases when the "public interest" does not call for adjudication and punishment.

The police service is organised on a national basis, and is headed by a chief of police. Similarly, prosecutors are organised nationally under the Director of Public Prosecution. Both organisations are under the direct supervision of the Minister of Justice.

The court system comprises district courts, high courts and the Supreme Court. The most serious cases are brought directly before the high courts where the question of guilt is decided by a jury. Misdemeanour cases and cases where the suspect has confessed are handled by a single judge in the district court, but in cases concerning more serious crimes the courts will usually consist of one or more professional judges acting together with one or more lay judges.

The minimum age of criminal responsibility is 15 years. Children under this age are dealt with by the local welfare authority. Also cases

involving youths between 15 and 18 years may be dealt with by such authorities should the prosecutor decide to waive prosecution.

II.1 Statistics

Intentional homicide. During the period covered by the Third Survey, the number of reported homicides has remained roughly steady at around 300 per year. However, most of these cases are attempts, and those actually being killed number about 70 per year. In 1986, 62 people were found guilty of murder, and 85 of attempted murder.

Assault. There has been a steady increase in the number of reported cases of assault, from 5 462 cases in 1980 to 6 708 in 1986 (23 %). The number of those found guilty was about the same in 1986 as in 1980 (3 500).

Robbery and Theft. Thefts and robberies show an upward trend of about 20 % during the period 1980-86. Robberies have increased from about 1 400 to about 1 800, and theft from 339 000 to 408 000. The number of those found guilty of theft was 27 800 in 1986, which is 31 % higher than the corresponding number in 1980.

II.2 Sanctions

The response reports that in 1986, 111 069 adults and 11 591 15-17 year-olds were *sentenced* by Danish courts, which is 30 % more adults and 32 % fewer juveniles than in 1980. The reason for the increase among adults reflects primarily an increase in the number of property crimes and the decrease among juveniles is mainly attributable to the declining number of traffic cases handled by the courts. The number of those *found guilty* is, however, much higher in 1986 than in 1980. If we include all such decisions by the courts, the prosecutors and the police, the figure is approximately 275 000. Most of these were traffic cases handled by the police.

In 1986, 15 213 people were admitted to prison to serve sentences. Most prison sentences were very short: 60 % were less than one month and 93 % under one year. As of 1 July 1986, 2 376 were serving

sentences in Danish prisons. On the same day, an additional 722 were incarcerated awaiting trial, and 49 for non-payment of fines.

Denmark reports that it had 63 prisons in 1986, of which 52 had a capacity of less than 100 inmates, 10 between 100 and 499, and one with a capacity of 500-999. In 1986, the 63 prisons had a total capacity of 3 734 available spaces.

II.3. Personnel and resources

Denmark reports that in 1986 it had the following resources

Police personnel:	
Police officers	9 416
Administrative personnel	2 746
Lawyer	343
Others	467
Prosecutors	88
Professional judges	601
Prison staff (1984):	
Management staff	348
Custodial staff	2 260
Treatment staff	278
Others	591

In addition to the 88 prosecutors, who only handle more serious charges, one should consider the lawyers and legally trained chiefs of police who handle all infractions and misdemeanour cases.

The financial resources in 1986 were:

Police and prosecution	3 169 000 000 DKR (507 million USD[7])
Courts	585 000 000 DKR (93,6 million USD)
Prison, parole and probation	886 000 000 DKR (141,8 million USD)

[7] 1 USD = 6,25 DKR.

III Selected Issues

The Danish Crime Prevention Council, established in 1971, is initiating a number of projects. The main philosophy of the Council's proposal is that crime prevention is a matter for society as a whole and not only for the law enforcement agencies.

ENGLAND AND WALES

I. Background

The country has no unified penal code. The criminal law is a mixture of various statutes and the common law. The latter is a body of precedent which has built up over many centuries, and is interpreted and summarised in textbooks by legal experts. Some of the most important offences, such as murder, are offences under the common law, though the penalties for such offences are prescribed by statute. Each year, Parliament adds a large volume of legislation, much of which creates new offences, usually of a highly specific kind. A new Criminal Justice Act passes into law every five years or so, which may make or consolidate major changes in the criminal justice system.

The powers and procedures of the police in the investigation of crime and the handling of suspects have recently been revised by the Police and Criminal Evidence Act 1984. Police forces have the discretion to deal with minor traffic violations by fines which do not have to be ratified by the court, unless contested by the alleged offender. The police also have discretion formally to caution a person alleged to have committed a criminal offence, subject to the satisfaction of three conditions:

i) the evidence must be strong enough to support a prosecution;

ii) the person must admit that he or she committed the offence;

iii) he or she must agree to the caution (as must his or her parents if he or she is under 17).

Since the first edition of this volume was published, there has been a major change in prosecution arrangements, with the creation of a Crown Prosecution Service to replace the police as prosecuting authority. The statute which brought the new service into existence was the Prosecution

of Offences Act 1985. The new Service was fully operational by October 1986.

Most of those brought before courts plead guilty, in which event only the sentence is at issue. Where guilt is not admitted, trials are adversarial, with prosecution and defence lawyers both examining all witnesses called. Traditionally the courts rely heavily on oral evidence, though recent legislation permits somewhat readier use of documentary evidence.

Most cases proceeding to court are heard before "benches" of unpaid lay magistrates, typically three in number. They are advised on points of law and procedure by justices' clerks, or court clerks responsible to justices' clerks. Justices' clerks are legally qualified and are also in charge of the courts' administrative arrangements. While strictly only advisory, the court clerk is recognized (although not officially) as very influential in setting the tone of a court and to some extent setting its sentencing level. In a few large cities where work is heavy, stipendiary magistrates, full-time, salaried and legally qualified, are appointed. They sit alone. Magistrates courts deal with approximately 98 % of all criminal cases dealt with. Less serious (summary) offences are dealt with exclusively by magistrates courts. More serious offences of some kinds *may* and of other kinds *must* be dealt with by the Crown Court. Business at the Crown Court is presided over by a single judge, normally a circuit judge, although it may be a High Court judge or a recorder (part-time judge). Almost all contested trials in the Crown Court have guilt determined by a jury of twelve citizens. Majority verdicts of 10-2 are accepted. The presiding judge decides on sentence. All cases dealt with by the Crown Court first pass through magistrates courts. Magistrates courts make preliminary inquiries into a serious case to see whether there is evidence to justify committal for trial in the Crown Court. In practice, the enquiry is often purely formal, although the accused can have the evidence tested fully at this stage. A magistrates court or a defendant may opt for trial to take place in the Crown Court, even when the magistrates court could adjudicate.

Magistrates may not impose a sentence of more than six months imprisonment in respect of a single offence, or of more than twelve

months in total. Magistrates courts sometimes commit offenders to the Crown Court for sentence, having determined guilt themselves.

Children are held criminally responsible from the age of 14. A younger child, if aged 10 or more, may be held criminally responsible if it is shown that in the circumstances of the case he or she was capable of distinguishing right from wrong. Defendants aged under 17 have their cases heard in juvenile courts. These are specially constituted magistrates courts which sit apart from other courts, or at a different time; only limited publicity is allowed. If a person under 17 is charged jointly with someone of 17 or over, the case is heard in the ordinary magistrates courts.

Appellate review of conviction or sentence is possible to the Crown Court from magistrates courts, and from there to the Court of Appeal (Criminal Division). A further appeal to the House of Lords may be made under limited circumstances. For the most serious offences, the Attorney General has power to refer apparently lenient sentences to the Court of Appeal, which may quash the original sentence and substitute another. The major mechanism of intended disparity reduction is the guideline sentence. In selected cases when hearing an appeal, the Lord Chief Justice, having dealt with the appeal itself, goes on to outline the general principles and particular circumstances which should underpin the sentencing.

II. Statistics

II.1 Selected Offences

In what follows, the years compared are 1980 and 1986, unless otherwise specified.

Intentional homicide. The number of recorded homicides (including attempted murder) remained fairly constant between 1980 and 1986. Intentional homicides increased from 775 to 820, and unintentional (e.g. causing death by dangerous driving) remained virtually unchanged (235 and 232 cases in the same two years).

Assault. The number of recorded crimes of assault increased over the period. Major assaults rose from 4 390 to 6 616, and all recorded assaults from 95 601 to 122 937. The general tendency in previous years has been for the least serious recorded assaultive crimes to rise most.

Rape and other sexual offences. The number of recorded rapes increased from 1 225 in 1980 to 1 433 in 1984 and 2 288 in 1986. The increase was thus most marked in 1985 and 1986. The primary reason for the change is almost certainly an increase in recording consequent upon the introduction of procedures for the more sensitive handling of rape complaints by the police. Surprisingly, sexual offences other than rape increased only marginally over the period, from 19 882 to 20 396.

Robbery. With the exception of kidnapping, where the numbers involved are very small, this is the crime showing the greatest proportional increase over the period, rising from 15 006 to 30 020.

Theft. This remains overwhelmingly the crime most frequently recorded. When minor thefts are included, 2 043 044 such crimes were recorded in 1980, rising to 2 893 996 in 1986.

II.2. Sanctions

In 1982, 111 300 people were cautioned by the police instead of being taken to court. This rose somewhat, to 124 100 in 1984 and 136 900 in 1986. The number of offences counted by the police as cleared up without formal measures was estimated for the first time in 1985, and is reported here for 1986. This numbered 267 000 and is strictly a count of offences rather than offenders. In consequence, the figures are difficult to interpret in terms of sanctions.

The total number of people convicted or cautioned declined from 1980 (555 257) to 1986 (518 619). The only numerically significant increases in convictions/cautions came from offences of robbery and drugs. Drug possession convictions/cautions rose from 10 451 to 15 388, and other drug offences from 4 569 to 5 930. The overall decline in convictions/cautions was particularly marked for juvenile offenders and for women offenders. The number of convictions/cautions of adult males rose marginally.

The number of sentences of "control in freedom" (sentences including probation or other supervised liberty) increased from 62 600 to 65 800. This figure relates to adults aged at least 21. The number of sentences involving warnings or admonitions (including suspended and conditional sentences) rose from 96 600 to 110 400.

The number of admissions to prison under sentence increased from 75 896 in 1980 to 86 153 in 1986. This figure, as is the case with all those below on admissions, refers to those aged 18 and over. The 1986 figure in fact reflects a remarkable fall from the 96 189 admissions in 1985, explicable by nothing more substantial than a change in penal climate. The period as a whole saw widely differing changes by age and sex.

Total adult male admissions rose from 64 951 in 1980 to 77 724 in 1986, as did adult female admissions from 3 529 to 4 149. Juvenile male admissions declined from 7 339 to 4 209 and juvenile female admissions from 77 to 71. A general observation was that the rates were particularly high in 1984 and 1985, and fell in 1986.

The sentenced prison population at the beginning of the period was 36 637 and at the end was 36,450, having fallen back from its peak of 37 344 in 1985. The number of juvenile males imprisoned fell from 1 674 to 767 during the period. The average length of prison sentence at the beginning and the end of the period was at the same level (7.0 months), but the average length of pre-sentence detention rose from 6 to 8 weeks. This is reflected in an increase from 5 288 (in 1982) to 8 410 (in 1986) in the number of those in custody awaiting trial. This was only partially offset by the decrease from 2267 to 1 555 in the number incarcerated after conviction but before sentence.

The number of people placed on probation rose from 131 160 in 1982 to 134 500 in 1986. The number of adults (21+) paroled from prison rose dramatically from 4 676 in 1982 to 10 541 in 1986.

II.3. Personnel and resources

The number of police service personnel increased from 163 440 (120 950 officers and 42 490 civilian staff) in December 1982 to 166 610 (121 550 officers and 45 060 civilians) in December 1986. Thus the total increase in staff in post is mainly attributable to the rise in the number of civilians. However, the small increase in police officer numbers hides the fact that there were over 2 000 officer vacancies at the end of 1986 compared with 800 at the end of 1982. The budgetary allocation to the police was 2 370 million pounds (4293,3 million USD[8]) in 1982 and rose to 3 165 million pounds (5733,4 million USD) in 1986.

Useful data on prosecution resources are not available for the period 1982 to 1986 because of the major reorganization of prosecution arrangements during the period, referred to earlier. In 1988, the Crown Prosecution Service had a total of about 4 000 legal and support staff. The number of professional judges rose from 960 in 1983 to 1 106 in 1987. The number of lay judges rose from 25 934 in 1983 to 27 650 in 1987. Spending on courts (excluding prosecution costs) rose from 325 million pounds (588,7 million USD) in the fiscal year 1982/3 to 481 million (871,3 million USD) in fiscal 1986/7.

Staff in post in prison establishments (including probation officers but excluding teachers) rose from 22551 in 1982 to 25 714 in 1986, the greatest proportionate increase being in management staff, which rose from 2 625 to 3 572. The stated cost of the system rose from 486,7 million (881,7 million USD) in 1982 to 626,8 million (1135,4 million USD) in 1986.

III. Selected Issues

Three issues are chosen for brief discussion. The first is the major fluctuations in the prison population and admissions statistics during the period, which are not accounted for by any changes in the law. The

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[8] 1 £ = 1,8115 USD.

changes were evident in both the proportion of those sentenced to custody, the length of time to be served and the proportion remanded in custody. Governments, faced with overcrowding in many prisons, had espoused a policy whereby courts were urged to avoid prison sentences for less serious offenders. However, insistence on very severe sentences for more serious offenders appears to have been more influential in establishing the penal climate generally, and in 1985 the prison population rose to an unprecedented degree.

A particularly marked trend, perhaps the more remarkable in the light of the changes referred to above, was the marked reduction in the use of custody for juvenile males. The use of community-based alternatives to custody, for juveniles convicted of crime, has been encouraged by the Government. In recent years the leading development has been the increased use of "intermediate treatment" (IT), a formal programme of supervised activities (e.g sports, counselling, learning job skills) as a condition attached to a Supervision Order. The Government has spent 15 million pounds on the IT initiative since 1983. 110 facilities have been set up, providing for up to 3 400 young people. Local authorities have now taken over responsibility for funding most of these facilities. The Government also makes a block grant of 0,5 million a year to a fund used for small grants to IT facilities run by voluntary organisations.

Crime prevention remains a central concern. Police force crime prevention departments (totalling 541 officers nationally) have a wide range of responsibilities which includes offering advice to citizens on improving the security of their property, through the provision of high-grade door and window locks, intruder alarms and other security hardware. This is backed up by national publicity campaigns. Institutionally, the Home Office has its own Crime Prevention Unit disseminating good practice, and a Crime Prevention Centre primarily for training of police Crime Prevention Officers and others. Neigbourhood Watch is encouraged centrally. Although there is no evidence that these schemes reduce crime, they have considerable popular support throughout the country, and are supported, as resources allow, by the police.

A national organisation "Crime Concern" has just been established with funding of 1 million pounds from the Home Office.

FINLAND

I. Background

The Finnish Penal Code was enacted in 1889. It has undergone extensive revision. The Finnish Code was decisively influenced by the Penal Code of Sweden, of which Finland was part until 1809.

Crimes are usually investigated by the police. Certain offences are investigated by customs and tax authorities. The Ministry of the Interior supervises the police. The results of police investigations are turned over to the prosecutor, who in the cities is a full-time prosecutor. In the rural areas the prosecution is handled by the district police chief. As prosecutors, all of these officials are under the supervision of the Chancellor of Justice.

Simplified procedures are used in the case of petty crime. Minor traffic offences are dealt with by a "petty fine" set by the police according to a fixed tariff. Petty fines cannot be converted to imprisonment. "Penal orders" can be used for all offences with a maximum punishment of six months of imprisonment or less, provided that the prosecutor only calls for a fine. The penal order sets out the punishment in day-fines. Finland adopted the day-fine system in 1921, as the first Nordic country to do so. The penal order is issued by the police and approved by the court. Most offenders pay the fine immediately but the offender has the option of challenging the penal order in court. Defaulters may be sentenced to prison.

The Finnish system is a very legalistic one with the exercise of discretion being closely circumscribed. The system is based on mandatory prosecution, where the prosecutor is allowed to waive prosecution only on certain conditions stipulated in law. If the offence is a so-called complainant offence, the consent of the complainant is a prerequisite for prosecution. The complainant may in all cases personally institute court proceedings, regardless of the decision of the prosecutor.

The minimum age of criminal responsibility is 15 years. Offenders below this age are dealt with solely by the social authorities. If the offender was under 18 at the time of the offence a more lenient set of penalties is available.

II. Statistics

II.1. Selected offences

Intentional homicide. The number of homicides has increased in the time period 1981 to 1986. In 1986, 334 cases were recorded; most of these (191) were attempts. The clearance rate was 94 %. In 1986, 61 people were sentenced for a completed offence of intentional homicide and 71 for attempted homicide.

Assault. The assault trend shows a marked rise at the beginning of the time period covered by the survey but has become more stable towards its end. Victimisation surveys indicate that the real risk of falling victim to an assault has remained constant over the period. Of the 16 707 offences recorded in 1986, 1 820 were classified as aggravated assault and 12 010 as petty assault. The clearance rate was 77 %. The rate per 100 000 population was 339. 9 113 offenders were convicted of assault in 1986.

Robbery. The robbery trend was downward from 1981 to 1986. 1 584 robberies were recorded in 1986. Robberies are usually committed by young people and are concentrated in the cities. The clearance rate was 55 %. 524 people were convicted of robbery in 1986.

Theft. Theft offences seem to increase in the long run, although with marked annual fluctuations. In 1986 the total number of theft offences (excluding car theft) increased by 3 % to 128 090. This corresponds to a rate of 2 600 per 100 000 population. The clearance rate was 39 %. 24 % of the theft offences were shoplifting or other such petty offences. In 1986 25 821 people were convicted for theft offences.

II.2. Sanctions

In 1986 353 930 people were prosecuted and 346 331 (including 268 300 people on whom penal orders had been imposed) were sentenced in courts of first instance. These figures include minor traffic violators and those convicted of other petty offences which in Finland are included in the concept of "crime".

11 467 people were sentenced to unconditional prison in 1986, 15 601 received a suspended sentence and 319 074 were fined. On 1 October 1986 the prison population, which has steadily declined since 1975, was 3 998. The average time served for adult prisoners released in 1986 was 2,2 months. There were 25 prisoners serving a life sentence. 540 or 13,5 % of the total prison population were awaiting trial.

In 1986 Finland had 34 prisons including labour colonies and other open institutions. 12 prisons had less than 100 inmates and none had over 400 inmates.

II.3. Personnel and resources

Finland reports the following personnel engaged in crime control duties in 1986:

11 589 police officers, of whom 2 562 were female (this figure does not contain the 3 580 semi-military frontier guards); 380 prosecutors, of whom 19 were female; 718 full-time judges dealing with criminal cases and 45 part-time judges dealing with criminal cases (of these, 17 were full-time and 14 part-time lay persons); and 2 337 prison staff, of whom 1 399 were custodial and 198 treatment.

The resources allocated to the various criminal justice agencies in 1986 were as follows:

police	1 511 000 000 FIM (392,7 million USD[9])
prosecution	18 000 000 FIM (4,7 million USD)
courts	557 000 000 FIM (144,8 million USD)
prisons	536 400 000 FIM (139,4 million USD)
non-instit.services	32 500 000 FIM (8,4 million USD)

The figures refer to the total expenditure of the service in question, including expenditure not related to crime. The crime-related expenditure on the police is estimated to be 375 937 000 marks (97,7 million USD).

III. Selected issues

Clearance rate. The clearance rate in Finland is rather high compared with other Nordic countries. The difference, which is discernible in all major crime categories, cannot be explained by different practices in counting crimes or computing the clearance rate. The powers of the police to hold suspects in custody for a considerable length of time (before the law reform which came into force in 1989) and the "rural elements" of the offence and offender structure have been offered as explanations of the high clearance rate.

Alcohol and drugs. The per capita consumption of alcohol is not particularly high in Finland but drinking habits favour intemperate drinking, which may lead to violence. Most serious crimes of violence are committed under the influence of alcohol. Drug use, on the other hand, is limited. Both crime statistics and anonymous surveys indicate that there are few drug users in Finland compared with other Nordic countries.

Criminal justice. The many reforms designed to reduce the high number of prisoners have begun to have an effect: prison use has been

[9] 1 USD = 3,848 FIM.

steadily declining since 1975. The total revision of penal legislation, which has been under way since 1972 and which will result in new legislation to be enacted during the early 1990s, can be expected to bring about additional reductions.

FRANCE

I. Background

The basis of present criminal law is found in the 1810 Penal Code (Code Pénal) with its many revisions. The most important recent revisions include the 1975 Act reforming the system of fines and suspended sentences and instituting a number of alternatives to imprisonment: the 1978 Act introducing the safety period (période de sûreté) during which, among other things, no release on parole can occur (since 1986 this safety period may last up to 30 years in the case of a life sentence), the 1981 Act abolishing the death penalty, and the 1983 Act introducing the community service order. Another important development since 1945 has been the evolution of criminal law concerning juveniles. A comprehensive revision of penal law has been under way for more than 50 years. The last Draft Penal Code was published in 1986 and examined by Parliament in 1989.

The basis of criminal proceedings is to be found in the Procedural Code of 1959 (Code de Procédure Pénale) which is a successor of the original code of 1808 (Code d'Instruction Criminelle). Among revisions made since 1959, one can mention those concerning pretrial detention in 1970, 1984 and 1989.

The investigation of offences is generally undertaken by the police. The administrative police forces are divided into two bodies; the Police Nationale operating under the supervision of the Ministry of the Interior and the Gendarmerie operating under the supervision of the Ministry of Defence. The Police Nationale comprises the Sûreté Nationale responsible for all French territory with the exception of the Paris region and the Préfecture de Police responsible for Paris and three neighbouring departements. However, for towns with less than 10 000 inhabitants the police forces are community forces (police municipale) headed in towns comprising more than 5 000 inhabitants, by a national police chief constable (commissaire).

The Gendarmerie is divided into two branches, the Gendarmerie Départementale assigned to the different regions and the Gendarmerie Mobile as a stand-by force for special tasks of securing public order. The Gendarmerie acts also as a military police force. More specific investigation duties primarily belong to the Police Judiciaire, which forms a part of the administrative police forces, but whose officers are not necessarily uniformed.

The results of police investigation are passed on to the prosecutor who is responsible for all further public action (action publique). The prosecutorial force is formally called the Ministère Public and, in everyday parlance, le Parquet. It operates under the supervision of the Ministry of Justice.

The French system of administering criminal justice adheres to the principle of discretionary prosecution (the opportunity principle). The public prosecutor may charge a person with an offence or dismiss the case. The victim may initiate legal proceedings either by presenting the case directly to the court (citation directe) or by constituting him or herself as a "partie civile" before the examining judge, who will investigate the case and may refer it to the court.

Police courts deal with contraventions. These include all offences which are punishable by fines or imprisonment of less than two months. Some of the so-called 1st to 4th class contraventions, mainly traffic violations, if not contested and if the offence is only punishable by fine, are usually dealt without any judicial process by the payment of fines.

Those contraventions which pass through the judicial system will, in most cases, be dealt with in the absence of court hearings by the police judge who can only impose a fine in such circumstances. In general, at the police tribunal courts, fines are the rule and short-term imprisonment the exception.

If the offence is legally regarded as a misdemeanour (délit) and brought to trial, it will be dealt with by the correctional courts (tribunaux correctionnels) as general courts of first instance. The comparatively small number of severe felonies (crimes) is handled by the courts of as-

sizes. All courts are independent. Their budget comes through the Ministry of Justice.

Children under thirteen cannot be sentenced or detained on remand. Full adult liability comes at the age of eighteen. Offences by those below thirteen (or by youths above this age if their case is not to be dealt with by the criminal justice system) are dealt with by the social welfare authorities and the youth courts which may impose educational assistance and control measures. Juveniles are subject to youth courts which may pronounce educational assistance and control measures or sentences. They will generally receive a mitigation in the penalty. If the suspect is between sixteen and eighteen years of age, the court may elect to treat him or her as an adult, and not apply the mitigation. Since 1989, no detention on remand in a correctional matter can be ordered for someone aged sixteen or below.

II. Statistics

II.1 Selected offences

Criminal statistics include crimes known to the police and the gendarmerie with the exception of those from overseas departements and all contraventions. Since 1980, the total number of crimes reported first increased rapidly, then the rate of increase slowed, and finally turned to a decrease (by 8 % between 1985 and 1986). Taking the period as a whole, there was an increase of 25 % in reported crime. Following a similar pattern, the number of those suspected decreased by 13 % from 1985 to 1986 but increased by 18 % between 1980 and 1986. Criminal statistics report an overall clearance rate of 40 %, varying from 15 % for theft to more than 100 % for drug related crime (this last figure is explained by the fact that the clearance rate is the ratio of cases cleared during a year to the cases reported during the same year). The cleared cases are those which have been attributed by the police to suspected offenders, regardless of the judicial decision which follows.

In 1986, the rate of reported crime was 595 per 10 000 inhabitants and the rate of suspected people was 146 per 10 000.

Intentional homicide. The data on intentional homicide includes infanticide and poisoning: this explains the difference between the figures on reported homicides published in the Third as compared with the Second United Nations Survey, which did not. There were 2 413 cases of intentional homicide reported by the police in 1986, including attempts. The number has decreased during the last two years of the period covered by the Third Survey, interrupting a general trend of increase. The number of those suspected of intentional homicide was 2 680 in 1986.

Intentional homicides

	Second Survey	Third Survey
1975	1 477	1 576
1976	1 599	1 737
1977	1 795	1 952
1978	1 713	1 835
1979	1 910	2 047
1980	2 084	2 253
1981		2 171
1982		2 495
1983		2 702
1984		2 712
1985		2 497
1986		2 413

Assault. 36 549 assaults were reported by the police in 1986. These include aggravated and simple assaults but exclude petty cases which qualified as contraventions. The number of assaults reported decreased by 7 % between 1985 and 1986 after a general trend of increase. 30 777 people were recorded as suspected of assaults.

Robbery. 50 740 robberies were recorded by the police in 1986. Of these, 8 001 were armed robberies (vols à main armée). Except for 1986 the overall trend is one of increase. 13 942 people were recorded as suspected of robbery. The series for armed robbery is given in the French statistics on crime as follows:

1980	4 841
1981	5 408
1982	5 535
1983	6 139
1984	7 661
1985	8 909
1986	8 001

Theft. Thefts represent 62 % of reported crimes. They increased by 29 % from 1980 to 1986. 2,041,268 thefts were reported in 1986, of which 20 % were burglary and 13 % were car theft. The major category of theft was "theft from a car" (vol à la roulotte): this comprised 32 % of all recorded theft in 1986.

II.2 Sanctions

Of all the cases dealt with by the public prosecutorial system during 1986, with the exception of 1st to 4th class contraventions, 4 296 000, i.e. 81 % were dismissed (classement sans suite), the others being sent either directly to the court (16 %), to the investigating judge (2 %) or the juvenile courts. During the same year, 12 382 cases were closed by the investigating judge (ordonnance de non-lieu) and the others sent to the courts. French statistics do not provide data on those prosecuted. 23 303 people were acquitted by the court. 672 912 were convicted by courts for adults, including overseas departements. Of these, 82 were sentenced for life imprisonment, 18 % to prison (not suspended or partially suspended sentences) 23 % to suspended prison sentences, 50 % to fines, 7 % to alternative measures (which include community service orders) and 2 % were found guilty without being sanctioned. For the selected offences seen above, there are data concerning the sentenced adults for homicide (818 sentences), assaults (27 628), armed robbery (861) and theft (122 002, 18 % of all sentences). Figures given for one

year ... not necessarily refer to the same people at the different stages of the proceedings. Another reason which explains the gap between the number of those suspected and the number of offenders eventually sentenced, is the change of "labelling" of the offence at different stages of the proceedings. Caution should also be exercised concerning the scope of the different statistics; some include overseas departements, and others do not.

Excluding overseas departements, 87 906 people were admitted to prison in 1986. 77 % of them were not definitively sentenced: some were remanded and some were convicted but still had time left to lodge an appeal. French statistics number such prisoners as unsentenced prisoners.

The average population in prison was 45 156, 21 278 of whom (47 %) were unsentenced prisoners. From these figures, one can approximate the average length of stay in prison as 6,2 months, and the average duration of detention under remand as 3,8 months.

The detention rate was 81 per 100 000 inhabitants and the admission rate was 159 per 100 000. From 1980 to 1986, the prison population increased by 20 %. This increase is mainly due to the extended length of stay in prison, including detention under remand, rather than to the flow of admissions.

The proportion of females rose from 3,1 % to 3,7 % and the proportion of juveniles (under 18 years old) remained constant (2,1 %). The proportion of unsentenced prisoners on 1 January rose from 45% to 50 %. According to the 1985 statistics on the number of admissions to prison, 40 168 (sentenced and unsentenced) were admitted for theft, i.e. 53 % of the admissions for which the offence is known. 9 % were admitted for drug-related crimes, 7 % for assault, 2 % for robbery and 2 % for homicide. 6 % of all admissions were of juveniles, 79 % of these were admitted for theft. Five per cent of all admissions were women, of which 49 % were for theft.

During 1986, 6 997 people were paroled and 28 914 were placed on probation. Suspended sentences were imposed on most of them.

II.3 Personnel and resources

The total number of police personnel rose from 196 210 in 1982 to 199 757 in 86 (+2 %). 56 % of these are from the Police Nationale and 44 % from the Gendarmerie. The number of professional magistrates rose from 5 402 to 5 832 (+8 %), the proportion of females rising from 29 % to 36 %. Half of these magistrates deal with criminal cases. Prison staff numbers 16 445, 80 % of whom are custodial staff. According to prison statistics, the occupancy rate was approximately 150 % in prisons housing those on remand or serving short sentences (maisons d'arrêt) and 100 % in prisons for those serving long sentences.

There are no prisons exclusively for juveniles. Some prisons reserve a few places for those aged less than 21: 1 095 places out of 34 184 in 1988, i.e. 3 %. However, the percentage of the prison population below 21 in July 1988 was 12 %.

On the basis of the research conducted at the CESDIP by T. Godefroy and B. Laffargue, the allocation of budgetary resources for the repression of crime is as follows in millions of francs (in millions of US dollars[10]):

	1980	1986	% increase
Police	2 033	3 783	+ 86
	(368,7)	(686,1)	
Gendarmerie	1 473	2 377	+ 61
	(267,2)	(431,1)	
Prosecution and court	1 565	2 565	+ 64
	(283,8)	(465,2)	
Prisons	1 523	3 388	+ 122
	(276,2)	(614,5)	
Juveniles	459	664	+ 45
	(83,3)	(120,4)	
(Education Surveillée)			
Total	7 054	12 777	+ 81
	(1 279,4)	(2 317,4)	
% GDP	2,5	2,5	-

[10] 1 USD = 5,5135 francs.

According to the same source, the total public expenditure for the prevention of crime in general terms was 10 140 million francs (1 839,5 million USD) in 1980 and 18 600 million francs (3 373,5 million USD) in 1986 (+83 %).

III. Selected issues

Particular emphasis has been placed on crime prevention between 1981 and 1986. In July 1983, the National Council for Crime Prevention (CNDP: Conseil National de Prévention de la Délinquance) was created in order to promote and coordinate crime prevention initiatives at a local level, by agencies of the state, and by municipalities and private associations. These actions for crime prevention are necessarily conducted in connection with specific measures for juveniles, such as the creation of job opportunities and vocational training. This crime policy forms part of the implementation of administrative decentralization, which was started in France in 1981. In order to combat public feelings of insecurity, schemes offering help to the victims of crime were developed. These included mediation between victim and offender. Alternatives to imprisonment before and after sentence were developed. First established in 1970, pre-sentence supervision was promoted after 1981 specifically through social and educational measures committed to private associations. Pre-sentence enquiries were developed. Community service, either as a main sentence or as a specific obligation of a suspended prison sentence, was introduced in 1983.

Specific efforts have been made to reduce the detention on remand of juveniles, and whenever they must be detained, to prepare them for release. The number of juveniles admitted on remand decreased from 6 053 in 1981 to 3 943 in 1987 (35 %).

HUNGARY

I. Background

During the period between the two World Wars, the Hungarian Penal Code of 1878 was in force. It was amended and supplemented for the first time in 1908, and many times thereafter, notably in 1948. 1950 saw part of the Penal Code replaced, and 1961 a new Penal Code was adopted. The Code presently in operation is that of 1978. It was activated in mid-1979, but underwent modification in 1984. In 1968, the laws relating to transgressions were codified. Transgressions comprise violations of administrative regulations and non-serious criminal violations, such as petty theft. The most severe penalty generally available for transgressions is deprivation of liberty for up to thirty days, except for some transgressions against public order, for which the maximum penalty is sixty days.

According to the Code of Criminal Procedure of 1973 and its related legislation, the preliminary investigation is conducted by the police and the investigative functionaries of the public prosecutor's office, under the supervision of a public prosecutor. The public prosecutor acts in accordance with the "legality principle" which obliges a prosecution to proceed when evidence against a suspect becomes available.

The public prosecutor institutes the act of indictment to the court. Some other agencies (such as the customs and tax authorities) also have limited prosecution powers in respect of customs and foreign exchange regulations and tax fraud. For some offences, the victim can initiate a private prosecution.

The court system in criminal matters comprises regional and district courts and the Supreme Court. Establishing the guilt of the accused and passing sentence are sequential tasks of a panel of one professional judge and two lay magistrates. There are no separate courts for juveniles. For the juvenile (14-18) age group, offences are typically dealt with by education or welfare authorities. In the event of serious offences, juveniles are dealt with by the courts of general jurisdiction.

Penalties for transgressions are meted out by the police or administrative agencies according to the nature of the violation. There is no right of appeal to a court against an adjudication for a transgression.

The prison service operates under the aegis of the Ministry of Justice. Some people deprived of their liberty for transgressions serve their time in police cells, i.e. outside the prison system. Their numbers are not recorded in the prison statistics.

II. Statistics

II.1 Selected Offences

Intentional homicides. There were 456 cases of intentional homicide reported during 1986. This figure includes attempts. From 1980 to 1986, the annual number of intentional homicides varied between 357 and 456, and the number of those suspected of committing these offences varied between 354 and 458. In 1986, 331 people were convicted of intentional homicide. This was the highest annual figure for the period 1980-1986, the lowest being 278 (in 1980).

Assault. 8 555 cases of assault were recorded in 1986. This figure was 25 % higher than that for 1980 (6 415). Since 1983 the number of assaults recorded remained relatively stable. The same was true of the number of suspects. There were 6 051 such people in 1986 and 5 943 in 1983. In 1980, there were 17 % fewer people suspected of an assault (5 032) than in 1986. The number of people convicted of assault was fairly stable from 1980 to 1986, varying between 6 304 (in

1986) and 6 915 (in 1980). These numbers are higher than the number of suspects, since they also include people indicted by the victim acting as private prosecutor.

Robbery. There were 1 607 cases of robbery recorded during 1986, 57 % more than in 1980, when 1,022 were recorded. The number of people suspected of committing robberies increased by 32 during the period, from 991 in 1980 to 1 305 in 1986. Those convicted numbered 1 140 in 1986, a 39 % rise over 1980 (821).

Theft. In 1986, 89 969 thefts were reported, which is 48 % more than in 1980 (60 866). The number of those suspected of this offence was much smaller: 18 320 in 1986 and 15 129 in 1980. This approximated the number convicted: 16 467 in 1986 and 14 583 in 1980.

II.2. Sanctions

For all offences dealt with by the courts in 1986, a total of 32 204 non-custodial sanctions were imposed. The majority of these (22 814 or 71 %) were unconditional fines. On 5 476 people (17 %) the courts passed suspended sentences of deprivation of liberty, and on 3 189 people, (10 %), sentences of "educative labour" were passed. To a few hundred the courts applied conditional fines (352, i.e. 1 %) or supplementary penalties (376, 1 %).

In 1986, the penalty of immediate deprivation of liberty was imposed on 28 108 people (47 % of all sanctions). Of these, 13 were sentenced to life imprisonment. In the national response, no data are provided on the length of sentences of immediate imprisonment. However, in previous years sentences were in general relatively short: over 40 % were up to six months and a further 40 % up to a year. Slightly over 10 % were for between one and two years, and fewer than 10 % exceeded two years. Sentences of immediate imprisonment have tended to become somewhat longer in recent years. In 1982, five people were sentenced to death, compared with one in both 1984 and 1986.

The total prison population on 31 December was as set out below:

year	number	number/100 000 pop
1980	17 532	164
1982	19 775	185
1984	21 884	205
1986	23 678	223

In 1986, there were 39 307 admissions to prisons, which is 14 % more than in 1980 (34 019 admissions). Among people incarcerated on 31 December 1986, 21 % were remanded in custody awaiting trial or sentence, 67 % had been sentenced, 1 % were imprisoned in default of fine payment, 1 % were in compulsory medical treatment, 3 % in compulsory treatment for alcohol addiction and 7 % were serving sentenced of deprivation of liberty for transgressions.

II.3. Personnel and resources

Hungary reported the following number of personnel engaged in crime control duties on 31 December 1986:

policemen: data unavailable.

public prosecutors: 938, of whom 541 were male and 407 female.

professional judges: 1 378, of whom 607 were male and 771 female. Only 460 of the professional judges dealt with criminal cases.

lay magistrates: 11 915, of whom 6 387 were male and 5 528 were female. Only 3 980 lay magistrates dealt with criminal cases.

prison staff: data unavailable.

According to the figures reported, budgetary resources allocated to the various criminal justice cases were as follows in 1986:

police:	not available.
prosecution:	281 000 000 forints (4,4 million USD[11])
courts:	289 072 000 forints (4,6 million USD)
prisons:	not available.

[11] 1 USD = 63,4865 forints.

ITALY

I. Background

The basic statute in the field of substantive criminal law is the Criminal Code of 19 October 1930 (Codice Rocco). At the time it was passed, it contained all the characteristics of the criminal law philosophy of the time. The idea of deterrence had been prevalent and this could be seen in the system of penalties as well as in the ways the Code dealt with professional and habitual offenders. The Code has been amended several times. The amendment of 1975 broadened the possibilities of imposing probation; the amendment of 1981 decriminalized those minor offences that had been transferred to the category of petty offences or administrative infractions. The same amendment of the Code also introduced new substitutes for short-term imprisonment. The amendment of 1984 modified the terms of pre-trial detention and the competence of judges of first instance and appeal.

The basic operation and outline of the Italian criminal justice is determined primarily by the Code of Criminal Procedure enacted in 1930. The Code has been amended several times. One major amendment was passed in 1955. The police are charged with preliminary investigation of alleged offences and detection of their perpetrators, including the collection and holding of evidence. The defence counsel has the right to be present when the suspect is being questioned by the police. The police are obliged to report to the judicial authorities all offences involving ex officio prosecution which come to their attention.

If a suspect is arrested the defence counsel must be present at any interrogation. However, according to a provision introduced in 1978, the participation of the defence counsel is not necessary when the continuation of the investigation requires the urgent interrogation of a suspect. In such a case the police prosecutor and the defence counsel must be notified. The statements of the suspect may not be minuted for use in judicial proceedings.

The police can remand a suspected person in custody for 48 hours. The judicial authority must be informed of the decision within this period. During the following 48 hours the judicial authority must interrogate the suspect and decide on the legality of the deprivation of liberty and on the need for custody pending trial. The public prosecutor is bound by the legality principle in the presentation of formal charges.

Judicial proceedings begin with a preliminary judicial investigation. In the case of flagrant offences, offences admitted by the suspect or demonstrated by clear evidence, the investigation is conducted by a magistrate of the public prosecutor's office ("istruzione sommaria"). In all other cases, the investigation is carried out by an investigating judge ("istruzione formale"). It is the public prosecutor who decides which of the two procedures is to be followed, but a suspect may request that the investigating judge undertake the preliminary enquiry. If the suspect is in custody, the investigation must be carried out by the investigating judge if, after 40 days, the public prosecutor has not asked for discharge or trial.

The 1930 Code of Criminal Procedure was inspired by the principle of secrecy, and therefore the presence of the defence counsel was not allowed in all judicial acts of investigation. In 1955 a law granted the defence counsel the right to be present at certain stages. An extension of the stages in which the right of defence must be assured followed over the next years due to the intervention of the Constitutional Court. Today, the defence counsel has the right to be present during the following stages: the interrogation of the suspect, enunciation of a judicial view or expert judgement, and search.

The provisions regulating pretrial detention have changed frequently. A law enacted in August 1984 has considerably shortened the maximum term allowable. According to this law, the maximum period of custody pending trial is fixed at 6 years for the most serious crimes (those carrying a minimum period of imprisonment of twenty years or life) and at 5 months for the less serious offences (those carrying a maximum of three years).

Within these periods of time, the appeal procedure (on question of fact) and the cassation procedure (on points of law) in addition to the new judgment after a cassation decision, must have been completed. Furthermore, the various phases of proceedings carry their own maxima. For example the judgment of the first instance must be pronounced within thirty days for the less serious crimes and within one and a half years for the most serious ones, the period being measured from the end of the judicial investigation. During investigation the judge may discontinue the proceedings and discharge the accused.

The minimum age of criminal responsibility is fourteen for minors and eighteen for adults. Between the ages fourteen and eighteen, the judge must establish whether the minor has reached a sufficient level of maturity to be considered responsible for his or her acts.

Because the Code of Criminal Procedure was enacted under different social and political conditions and it has often been amended, work was undertaken on a new draft during the 1970s. The new Code of Criminal Procedure has been passed and will come into force in October 1989. It will be designed to accord with the demands laid down by the Italian Constitution and relevant international agreements. It should guarantee greater rights to the defendant and transform the so-called mixed procedure into a primarily adversarial procedure.

II. Statistics

II.1. Selected offences

Intentional homicide. According to the Second United Nations Survey, the number of cases reported to the police was 1 977 in 1980, while in 1986 the number of those brought into formal contact with the criminal justice system (imputato) was 2 138. This represents a rise of 8 % (if data are comparable). As to the number of people sentenced, there is a very small rise, from 452 to 463. It is noteworthy, however, that only 21 % of those "imputato" (reported to the police) were sentenced; the number of persons prosecuted for this offence was 2 306 in 1980 and 1 896 in 1986.

Assault. The data provided in the response to the Third United Nations Survey show that very important changes must have taken place between 1980 and 1986 as regards the police role in reporting and selecting assault cases. According to the response to the Second United Nations Survey, 32 118 persons were suspected of assault in 1986, but according to the response to the Third Survey, only 16 164 persons were suspected of this same offence. The drop in the number of sentenced people was far less marked (1 528 to 1 284, or -16 %). The most striking feature is probably the fact that only 8 % of all those who were reported to the police (imputati) were sentenced (31 608 in 1980 and 27 653 in 1986).

Robbery. With this offence a clear rise can be seen at all stages of the procedure if we compare 1980 with 1986. According to the response to the Second Survey, 4 303 people were suspected of robbery in 1980; according to the Third Survey, 6 819 people were suspected of this in 1986. The rise in numbers prosecuted is 16 % (5 204 in 1980 and 6 252 in 1986), and the rise in those sentenced amounts to 10 % (2 360 and 3603, respectively. The percentage of those sentenced as a percentage of those reported to the police (38 %) is relatively high compared with other offences analyzed.

Theft. Again, a comparison of the responses to the Second and Third Surveys suggest that some important changes must have taken place in the exercise of police discretion between 1980 and 1986. The number of persons reported to the police as suspects in 1986 (95 714) has dropped considerably from the figure for 1980 (170 170). The drop from 1980 to 1986 in the number prosecuted (64 026 and 60 193, respectively) and the number sentenced (22 181 and 18 017, respectively) is much smaller than the drop in the number reported to the police. In 1986, only one in five of those reported to the police was sentenced. In 1980, the ratio had been one in eight.

There is a general impression that, between 1980 and 1986, the police have, for whatever reason, identified fewer people as suspects in relation to minor offences (assault and theft, including minor cases). Despite this, almost as many people are sentenced for the less serious offences at the end as at the beginning of the period. This change of practice is perhaps due to the amendment of the Criminal Code in 1981 as it

concerned petty crime. In contrast to the picture for petty offences, the numbers of those suspected of serious crimes did not change markedly over the period in question. The proportion of those suspected of serious crimes who are eventually sentenced is very much higher than is the case for less serious crimes.

II.2 Sanctions

The data available for comparison refer to 1982 and 1986. A very rough classification of penal sanctions reveals the following picture:

Sanction	1982	%	1986	%
deprivation of liberty	62 511	42	51 250	37
warning, admonition	36 903	24	25 986	19
fine, unconditional	51 690	34	60 081	44
total	151 104	100	137 317	100

The table shows that between 1980 and 1986 there was a decrease (-10 %) in the total number sentenced. The proportionate use of imprisonment has decreased from 42 % in 1982 to 37 % in 1986 while the proportionate use of the fine has increased by 10 %.

The total number of prisoners on 31 December 1986 was 33 609, of whom 20 099 (60 %) were in pretrial detention.

In 1986, there were 385 prisons for adults. Of these, 283 had a smaller capacity than 100 prisoners, 91 from 100 to 499, 6 had from 500 up to 999 places and 5 could accommodate more than 1 000. The total prison capacity was 35 647. In addition, there were 1 111 places in penal and correctional institutions for juveniles.

II.3 Personnel and resources

The response reports that 7 711 milliard (billion) lire (6410 million USD[12]) were allocated for the police, and 1 362 milliards (billion) lire (1130 million USD) were allocated for the prison system.

As to the number of personnel in the criminal justice system the response gives the following data:

police force	76 092
public prosecutors	1 540
judges and magistrates	1 731
prison staff	30 546

There is no mention as to whether the judges and magistrates deal with criminal matters only. In view of the small number reported, one would presume that this is the case.

[12] 1 USD = 1203,5 lire.

MALTA

I. Background

As a former British Crown Colony, Malta retains many features of the British criminal justice system. The age of criminal responsibility is nine years and the upper age limit for treating offenders as juveniles is eighteen years, the lower limit being fourteen years. The criminal statistics exclude attempts, traffic offences and other minor offences and most so-called modern crimes. The police cannot choose to terminate a criminal case. Private prosecutions are possible but are used in less than 5 % of all cases.

The response from Malta does not contain other background information about the nature of the criminal justice system or about current crime prevention strategies.

II. Statistics

II.1 Selected offences

Intentional homicide. The level of homicide is fairly stable, ranging from 3 to 10 cases annually during the years 1980-1986. During this period 34 offences were recorded and 30 people were prosecuted for intentional homicide. All except one were male. Eleven offenders were convicted of intentional homicide.

Assault. There are some inconsistencies in the reported figures of assault. With a reservation for the possibility of misinterpretation, the annual number of all assault appears to have risen from 63 in 1980 to 145 in 1986. The number of prosecuted offenders remains stable: it was 42 in 1980 and 41 in 1986. Of all 274 offenders prosecuted during this period, 3,6 % were female. Only 11 (4 %) of prosecuted offenders were juveniles. 487 offenders were convicted.

Robbery. There were 46 recorded robberies in 1980 and 46 in 1986. The annual average of reported robberies during the time period 1980-1986 was 33 and the annual average of prosecuted offenders was 12. Of the 84 people prosecuted for robbery all were male and only 9 (11 %) were juveniles.

Theft. The number of recorded thefts (including minor thefts) has risen from 3 517 in 1980 to 4 306 in 1986. During the same time the number prosecuted has risen from 152 to 177. Of the 1 129 prosecuted during this period 83 % were adults. The percentage of female offenders was 3,2.

II.2 Sanctions

According to the response from Malta, there are only three categories of sanction: deprivation of liberty, warning and fine. In the years 1982, 1984 and 1986 the number of adults sentenced to a punishment involving deprivation of liberty was 82, 86 and 82 respectively.

The response from Malta does not contain data on prisons or prisoners.

II.3 Personnel and resources

In 1982 the total strength of the Maltese police force was 1 259, of whom 79 were female. In 1986 the corresponding figures were 1 383 and 65.

The budgetary resources allocated to the police were 4 269 000 Maltese pounds (13,4 million USD[13]) in 1982 and 4 754 000 (14,9 million USD) in 1986.

The response from Malta does not include data on the resources and personnel of the judiciary or the prison service.

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[13] 1 USD = 0,3195 Maltese pounds.

NETHERLANDS

I. Background

The criminal justice system of the Netherlands has been influenced by both internal development and, especially since the 1810 annexation, by French developments. A Criminal Code for the Kingdom of Holland was enacted in 1809. A year after the annexation, the French Penal Code of 1810 came into force. It formed the foundation for the theory and practice of substantive criminal law even after the Netherlands regained independence in 1813. With the exception of the already reformed system of penalties, it was administered as a "provisional" penal code until the Penal Code of 1881 came into effect in 1886. The Penal Code has been considerably amended since then.

Some of the amendments to the Penal Code which came into force during the period covered by the Third United Nations Survey should be mentioned. In 1983, the system of sanctions was changed by broadening the scope for imposing fines. In 1984, the community service order was introduced as an alternative to imprisonment.
Among other central legislation affecting criminal justice are the Military Penal Code of 1903 (revised in 1963), the Opium Act of 1928 (revised in 1976), the Traffic Act of 1935 (revised in 1951), the Economic Offences Act of 1950 (revised in 1976) and the Prison Act of 1951 (revised in 1974). The basis of criminal procedure is found in the Code of Judicial Procedure, which was enacted in 1921, and came into force in 1926.

In general, the investigation of offences is dealt with by the police. However, certain specialized authorities, such as those dealing with taxation and customs, also investigate a number of offences. With regard to petty offences, classified as transgressions (e.g. traffic violations), the police have the power to utilize a so-called "transaction" which is regarded, in formal legal terms, as a kind of civil agreement between the state agent (the police officer) and the offender. If the offender agrees to pay the "poena" (financial penalty) set by the police officer in accordance with a fixed tariff, this payment ends the case.

The results of police investigation in other criminal matters are passed on to the prosecutor. Approximately 20-25 % of all police work was reported as having been devoted to criminal investigation duties in 1980. In particular cases, prosecutors are said to investigate actively on their own behalf. The Dutch system of the administration of justice does not adhere to the principle of mandatory prosecution, but follows instead the so-called opportunity principle. The prosecutor, working in accordance with this principle, may terminate cases in different ways: by "technical dismissal" if not enough evidence is available; by policy dismissals if the prosecutor believes the case merits no trial; or by a "transaction". Since 1983 the prosecutor can offer a transaction in minor cases. In most cases dealt with in this way, this involves a financial obligation. A prosecutor may also transfer a case to another jurisdiction. In 1985, the prosecutors' offices brought to trial 116 492 cases and terminated 95,642 cases.

All offences which are brought to trial are dealt with in general courts of first instance. The courts are independent, with the budget coming from the Ministry of Justice. In 1983, the competence of the courts of first instance was broadened.

The minimum age of criminal responsibility is twelve. Full adult responsibility begins at the age of eighteen years. Offences by those below the age of twelve are dealt with by child welfare authorities or by the (civil) juvenile court. Offenders between the ages of twelve and eighteen may be dealt with either in or out of the criminal justice system. In practice, many petty cases involving children are dealt with by the police authorities (acting in general with the consent of the judicial authorities but without formal legal jurisdiction). The majority of the more important cases are dealt with by a so-called "three-party-council" (the prosecutor, a police officer and a representative of the child welfare board). The council quite often moves the dismissal of the case.

II. Statistics

II.1 Selected offences

Intentional homicide. Dutch police statistics do not distinguish between different types of homicide. Moreover, court statistics do not specify the number of homicides but supply data on "crimes against life and persons" including all categories of this kind of offence. Therefore, it is not possible to trace the flow of cases of homicide through different stages of the criminal procedure. In 1980, 1 501 cases of "crimes against life" (homicides of all kinds, attempted and completed) were reported to the police (Second United Nations Survey data). In 1985, there were 1 796 such cases (about 90 % of which were attempts rather than completions) which represents an increase of 20 % over 1980. The rate per 100 000 population was 12,3.

Assault. In 1980, 13 409 assaults were reported to the police. This crime also increased during the period covered by the Third Survey - in 1985 there were 17 231 cases reported to the police (minor assault is not included). The rate per 100 000 population was 118. The court statistics again do not specify the number of assaults in general, but give specific data on "minor" assault only - there were 3,739 such cases in 1981 and 3 616 in 1985. By definition, this figure covers only those proceeded against for assault.

Robbery. The relevant category in Dutch statistics is theft with violence. In 1980, 4 243 such thefts reported to the police, which by 1985 had increased to 7 833 (+84 %). In 1985 the rate per 100 000 of population was 53,6. According to the court statistics, 692 people were convicted of this offence in 1980, and 1 360 were convicted in 1982.

Theft. The Dutch data on theft differentiate between theft and petty theft and give a total for both categories of these offences as reported to the police. A comparison between 1980 and 1985 is provided below:

Type of theft	1980	1985
theft	191 372	396 577
petty theft	291 543	416 943
total	482 915	813 520

The increase is considerable. In 1980, 14 910 people were convicted while in 1985 this figure reached 21 772 (+46 %).

II.2 Sanctions

As reported above, during the period 1980 - 85 important changes have occurred in this respect. The main purpose of these changes has been to establish alternatives to short-term imprisonment. A fine can be now imposed for any offence, including those for which hitherto imprisonment had been the only sanction. The fine minimum has been increased. The maxima are divided into six categories. Any "supplementary penalty" (Nebenstrafe), such as the fine, can be now pronounced as the only sanction. The court has broad powers to refrain from imposing any sanction. Since 1984 the community service order has been routinely available. Before then, it had been available on an experimental basis only.

In 1980, a total of 67 559 people were sentenced by Dutch courts. In 1986 there were 68 561. A fine (unconditional or partly unconditional) was imposed in 30 372 cases (44 %), unconditional imprisonment in 9 282 cases (13,5 %), and a suspended sentence (imprisonment) in 6 271 cases (9 %). Other sanctions referred to in the Dutch statistics are: partly unconditional imprisonment, partly conditional fine, and imprisonment combined with fine (the latter was imposed in 14 599 cases [21 %]).

The total prison population in 1986 was 5 576, of which 2 315 were awaiting trial and 3 262 were sentenced. The average prison sentence length for the selected offences were in 1986 as follows (in months):

homicide	26,6
assault	2,5
robbery	11,7
theft (including petty theft)	3,3

In 1986, the average length of time served in prison for all sentences was 4,8 months.

In the Netherlands there are a total of 60 correctional institutions for adults, 37 of which have a capacity of less than 100 places and 23 a capacity of between 100 and 299. For juveniles, there are 12 correctional institutions with a total of 380 places.

II.3 Personnel and resources

In 1986, the Netherlands reported the following personnel engaged in crime control:

28 516 policemen (the report specifies that 20 - 25 % of their time is spent with criminal cases). In addition to the police force, other law enforcement agencies (e.g customs and tax authorities, railroad police, military police) exist, and private security has a large number of employees.

233 prosecutors

378 full-time professional judges;
541 part-time professional judges;

5 260 prison staff in adults institutions, 118 of them management staff, 3 205 custodial, 981 treatment staff, and 956 "others".

As for resources the Dutch report provides the following data for 1985: (in million guilders)

police	3 090	(1668,5 million USD[14])
prosecution and criminal courts	287	(155 million USD)
prisons	607	(327,8 million USD)

III. Selected issues

Information system on crime. Data on crime are gathered from various sources: data on victimization, on recorded criminality and its clearance, on criminal cases and the implementation of sanctions. The information system is computerized.

Prevention strategies. In 1985, a Government Plan was formulated to combat crime ("Society and Crime, 1985 - 1990"). It deals with different preventive strategies. For children and juveniles, it deals with, inter alia, placement of predelinquent children into foster families, special "crisis centres" for children in (immediate) trouble, several projects for marginalized youth, and programmes for unemployed youth. A crucial element in the Plan is "civil prevention", i.e. prevention by agencies outside the law enforcement agencies (e.g. by local authorities, by shopholders and by schools). The Plan envisages programmes to increase the presence of the police in boroughs. Increased supervision in public transport started in 1986. A consulting service was set up by the police for potential victims to provide information on technical means of preventing burglary. Publicity campaigns have been carried out, involving posters in public places and TV advertising.

[14] 1 USD = 1,8520 guilders.

NORTHERN IRELAND

I. Background

The criminal justice system of Northern Ireland is broadly similar to that of England and Wales. The following emphasizes the points of contrast.

All prosecutions tried on indictment are conducted by the Director of Public Prosecutions for Northern Ireland who is responsible to the Attorney General. The Director also has discretion to choose classes of summary offences which he considers should be dealt with by him. Currently that discretion is exercised broadly by the Director reserving to himself more serious offences and those which involve public interest questions, including offences of a political kind. Minor prosecutions by Government departments are conducted by an official of the department concerned. The more serious are initiated and conducted by the Director. All other offences are normally prosecuted by the police.

The routine summary process involving minor local cases is carried out by magistrates courts presided over by a full-time legally qualified resident magistrate. Offenders aged less than seventeen are dealt with by juvenile courts consisting of the resident magistrate and two lay members (at least one of whom must be a woman). Appeals from magistrates courts are heard by the county court. The Crown Court deals with criminal trials on indictment. It is served by High Court and county court judges. Proceedings are heard before a single judge, and all contested cases, other than those involving terrorist offences and detailed in emergency legislation dating from the 1970s, take place before a jury.

Appeals from the Crown Court against conviction or sentence are heard by the Northern Ireland Court of Appeal. Procedures for a further appeal to the House of Lords are similar to those operating in England and Wales. The terrorist courts sitting without juries are popularly known as Diplock courts.

An interesting sidelight on Northern Ireland legislation is that a scheme for dealing with juvenile offenders (spelled out in the Black Report) has never been enacted but has proven very influential in that leading juvenile cases are now assessed on offence-related factors rather than in terms of offender welfare.

The political troubles of the last two decades have had an important effect upon the shape of the penal system. For instance, parole is not available in Northern Ireland as it is in the remainder of the United Kingdom. Instead, prisoners may earn one-half remission on determinate sentences, provided remission does not reduce the sentence below 31 days. For those serving over a year, a court can order all or part of the outstanding balance of the remitted period to be served in the event of reconviction in the remitted period for an imprisonable offence.

Additionally, the recognition of special category status (i.e. political) prisoners during the 1970s has led to a diminishing number of prisoners convicted of terrorist offences living in self-governing compounds specific to particular para-military groups, in ways reminiscent of prisoner-of-war camps.

II. Statistics

II.1. Selected offences

Intentional homicide rose from 85 in 1980 to 99 in 2982 but fell back to 85 in 1986.

Assaults, both major and minor, increased substantially over the period. Major assaults increased from 1 200 to 1 983, and minor assaults increased from 1 710 to 3 051. The recorded incidence of sexual assault in the form of rape rose from 48 in 1980 to 107 in 1986. This represented the most precipitous rise in any crime type in Northern Ireland during the period, with the exception of drug crime, which increased threefold from a low base (113 offences) in 1980.

Robbery rose from 1 299 offences in 1980 to 2 204 in 1986. The rise was by no means a steady one. Indeed, the year with by far the highest rate of robbery offences (2 731) was 1981.

Major **thefts** fell over the period from 27 270 to 26 662, but when one includes minor thefts, the modest fall turns into a moderate rise (from 43 809 to 50 040).

The particular terrorist-related category of crimes against the state fell over the period from 1 890 to 1 537.

Combining all crime, there was a steady rise over the period, from 56 316 in 1980 to 68 255 in 1986.

II.2. Sanctions

The rate of cautioning grew dramatically from 1982 to 1986. In 1982 a mere 719 people were cautioned. This had grown to 2 106 by 1986. This increase was much greater than that of the number of convictions, which went from 8 244 in 1982 to 10 312 in 1986. This was a feature of adults only, juvenile convictions falling slightly. The number of fines increased from 1 904 to 2 832. Other forms of wholly non-custodial sentences displayed much shallower increases. For instance, sentences involving "control in freedom" increased from 1 265 to 1 479.

The population of incarcerated people declined over the period from 2 632 to 1 957. This was an across-the-board fall, i.e. a decrease was evident in those awaiting trial or adjudication, those sentenced, those imprisoned for non-payment of a fine and those incarcerated under civil law provisions. The fall also occurred for adults of both sexes, but not for juveniles. Juvenile males imprisoned rose from 43 to 61. Only two juvenile females contributed to the recorded prison population of Northern Ireland during the period, reflecting a total of six admissions.

The average length of pre-trial incarceration decreased slightly over the period, from 21 weeks in 1982 to 20,8 weeks in 1986. This was achieved in spite of a virtual doubling of the period for those charged with intentional homicide, from 43,7 to 84,9 weeks. The length of prison sentence served increased from 13,1 to 17,2 months.

Prison admissions doubled between 1980 and 1986, from 1 810 to 3 733. This is attributable to three offence categories, assault (which rose from 188 to 410), theft (which rose from 620 to 898), and the residual "other" category (which rose from 491 to 1 689). The rise was limited to adults of both sex.

II.3. Personnel and resources

The response to the Third United Nations Survey does not provide data on the numbers of police personnel, but police expenditure rose from 217,8 million pounds sterling (394,5 million USD[15]) to 318,6 million (577,1 million USD) between the financial years 1982/3 and 1986/7. Prosecution expenditure rose from 2,5 million (4,5 million USD) in 1983/3 to 4,1 million (7,4 million USD) in 1986/7.

The number of professional judges or magistrates dealing full-time with criminal cases in Northern Ireland rose from 31 in 1982 to 39 in 1986. The number of lay magistrates dealing with criminal cases fell from 182 to 161. Court expenditure rose from 11 million (19,9 million USD) in 1982/3 to 16,3 million (29,5 million USD) in 1986/7. The rises in all categories of prison staff during the period under consideration were modest. For instance, total custodial staff rose from 1960 to 2 173 and management staff from 294 to 372. Rises in other categories of staff were broadly similar. Prison expenditure, in contrast, showed a dramatic rise from 55,8 million (101,1 million USD) to 92,4 million (167,4 million USD).

III. Selected issues.

According to the international image, Northern Ireland is a place engulfed in a bitter civil war. Certainly political-cum-sectarian strife is a motif of the society which it is impossible to ignore, both in its own right and in its consequences for the criminal justice process. Paramilitary organizations are, on the Nationalist/Republican side, primarily the Provisional Irish Republican Army (PIRA or IRA) and the

[15] 1 £ = 1,8115 USD.

Irish National Liberation Army (INLA). On the Loyalist side their mirror organizations are the Ulster Defence Association (UDA) and the Ulster Volunteer Force (UVF). The paramilitary organizations administer their own "justice" for offenders within the areas within which their influence is arguably greater than that of the official security forces. The sanctions imposed include punishment shootings (typically knee-capping). The Republican/Nationalist paramilitary organisations target the security forces (police and army) for attack, and judges and lawyers have also been murdered.

While normal life is maintained in Northern Ireland, the consequences of the underlying struggle are apparent in the Diplock courts (see above), the presence of the British Army on the streets, the extent of armour on police vehicles and the routine apparel of police officers, including bullet-proof vests and guns. More subtle effects include the virtual absence of conventional criminological research within Northern Ireland. An important recent initiative has been the establishment by the voluntary organization EXTERN of a Centre for Independent Research and Analysis of Crime (CIRAC) which promises at least to begin to fill the vacuum.

In principle, and to a large extent in practice, efforts towards crime prevention take roughly the same form in Northern Ireland as they do elsewhere in the United Kingdom.

NORWAY

1. Background

The much-amended Criminal Code of 1902 remains in force, but a substantial revision is being planned. The most recent of the minor amendments came on 1 January 1986, when a new Criminal Procedure Law came into force.

Offences are formally divided into "crimes" and "misdemeanours". In principle, an offence is a crime if it is punishable by more than 3 months imprisonment; otherwise it is only a misdemeanour (although there are some important exceptions). The division is important, since misdemeanour cases are processed differently from crimes, and the statistical data are less complete and reliable for misdemeanours.

Investigations of criminal offences are handled by the police and very rarely by other authorities. When the police have evidence indicating the guilt of a person, cases involving crimes are referred to the prosecutor, while misdemeanours are handled by the local chief of police and his or her legally-trained staff. A right exists for police officers "on the beat" to give "warnings" and to "admonish" in cases of infractions, but is not regulated by law. On the prosecutorial level Norway utilizes the principle of opportunity, and prosecution is often waived, especially in respect of juvenile offenders. Most misdemeanour cases are settled either by "ticket fines" or a summary process whereby the offender agrees to pay a fine suggested by the chief of police. The defendant may instead choose to bring the case before the court.

The court system consists of district courts (98), superior courts (5) and the Supreme Court. The district courts usually consist of one professional judge and two lay judges, sitting as a group. The superior courts function partly as courts of first instance in serious cases where the crime in question is subject to more than 6 years imprisonment and partly as courts of second instance for cases referred by the district courts. When acting as courts of first instance they are jury courts,

while lay judges participate when the superior courts are acting as courts of second instance. Both the lay judges and the jury members are randomly chosen from a list of citizens from the local community. Norway has no administrative courts. The autonomy of the parts of the criminal justice system is - with the exceptions of the courts - restricted, since the administration is planned by and responsible to the Ministry of Justice.

The age of criminal responsibility is fourteen years (increased to fifteen years in 1990). Most cases involving Penal Code offences committed by teenagers are referred to the communal (municipal) child welfare board by means of waiver of prosecution. The board members are appointed by local authorities. The district judge participates in those cases where the matter to be decided is whether to place a child in a foster home or institution and the parents oppose such a decision. The system is a part of the social welfare services and is subject to the Ministry of Social Affairs.

II. Statistics

II.1 Selected offences

Intentional homicide. In 1986 the police reported that they had completed investigation of 37 cases of intentional homicide. In the years 1980 to 1986 the number of cases has varied between 31 and 47. In 1986 28 people were sentenced for intentional homicide, which is roughly the same number as in 1980.

Assault. The number of cases of assault (completed rather than attempted) investigated by the police has increased between 1980 and 1986 from about 4 000 to more than 5 000. The number of those found guilty was 1 023, of whom 302 were sentenced to unconditional imprisonment.

Robbery. The number of cases dealt with by the police in 1986 was 604, which is almost double the figure for 1980.

Theft. In 1986 the police completed investigation of 124 074 cases of theft, which is about 30 % higher than in 1980. The figure includes unauthorised use of a motor vehicle, but does not include petty theft. The number of people found guilty of theft in 1986 was 5 325 (of whom 2 145 were sentenced to unconditional imprisonment). In addition 2 195 people were fined for petty theft.

II.2 Sanctions

In 1986 there were approximately 160 000 cases where a suspect was found guilty of an offence. 12 000 of these cases were crimes and the remaining 148 000 cases were misdemeanours. The criminal courts handled 9 200 crime and 10 000 misdemeanour cases, while the rest were handled by prosecutors or chiefs of police by means of waiver of prosecution or summary process. Of the 160 000 cases, approximately 85 % resulted in fines, 10 % in probation, suspended sentences, waiver of prosecution etc., and 7 % in unconditional imprisonment. The length of the prison sentences was generally very short: 90 per cent of the unconditional sentences were less than 6 months.

The number of people admitted to Norwegian prisons in 1986 was 12 046, of whom 789 were returned for breaching parole. Of the remainder, 3 417 were awaiting trial, 417 were imprisoned for non-payment of a fine and 7 423 were admitted under a sentence of imprisonment. The average daily number of people incarcerated per day during 1986 was 2 000. Of these 1 500 were serving a sentence, 46 were in preventive detention (a measure for offenders labelled "dangerous"), 16 were in prison because of non-payment of a fine, and 432 were in custody awaiting trial.

According to the response to the Third United Nations Survey, in 1986 Norway had 46 prisons of which 38 had a capacity of less than 100 prisoners and 8 between 100 and 500 prisoners. Since 1975 Norway has had no special institution for young offenders. Maladjusted delinquents under the age of eighteen may be cared for by the social welfare services which operate some treatment institutions.

II.3 Personnel and resources

Norway reports the following data on personnel for 1986:

Police personnel:	5 996
Prosecutors:	30 (in charge of crimes; the chiefs of police in charge of misdemeanour cases number around 250).
Professional judges:	429. Of these 387 deal with criminal cases as well as civil cases. There are no reliable figure for the number of lay judges and jurors.
Prison personnel:	1 538, of whom 1 003 were classified as custodial and 33 as treatment officers.

The monetary resources were allocated in the following manner in 1986:

Police:	NOK 2 113 260 000 (352 210 000 USD)
Prosecution (excluding police chiefs):	NOK 18 852 000 (3 137 500 USD)
Courts:	NOK 438 439 000 (73 073 000 USD)
Prisons:	NOK 520 600 000 (86 600 000 USD)
Community-based services:	NOK 49 000 000 (8 200 000 USD)

III. Selected issues

The response to the Third Survey does not include - with one exception - any comments or answers to the questions concerning crime prevention strategies. The exception is a reference to a special bureau within the police, the Norwegian Police Data Processing Service. The response describes the aims and work of this Service and draws attention to the usefulness of a computer-based international system of information.

Norway is experimenting with community service in place of short-term imprisonment, and "conflict resolution boards". However, no figures or other information are presented.

When interpreting the figures concerning the use of imprisonment, attention is drawn to the importance placed on "drunken driving". Of all the sentences to unconditional imprisonment (for both crimes and misdemeanours) almost half were for this offence. However, the statistics may change in the light of changes in the law on drunken driving enacted in 1988.

POLAND

I. Background

Poland's contemporary criminal justice system was shaped by legislation adopted in the years between the two World Wars. Its core consisted of the Code of Criminal Procedure of 1928, the Law of the Structure of the Courts of the same year, and the Penal Code and Code of Transgressions, both of 1932. After World War II the above Codes, in particular the Code of Criminal Procedure, were amended several times, and in 1949 a new court system was introduced. In 1969 the penal legislation was changed again. A new Penal Code was adopted, together with a Code of Criminal Procedure, and a Code of the Execution of Penalties. This legislation came into force on 1 January 1970. In 1971, the penal legislation was supplemented by a new Code of Transgressions, a Code of Procedure in Cases of Transgression, and the Law on the Structure of Boards dealing with Transgressions. The term transgression is used to refer to penalised violations of administrative regulations as well as types of behaviour of a criminal nature, such as petty thefts and other minor infringements of property rights. In 1971, a Fiscal Criminal Code was adopted, and in this way the codification of the penal law in Poland as it exists today was finally completed.

During the 1970s, penal legislation remained fairly stable. At the end of 1981 martial law was declared, and remained in force until the end of 1982. It was then suspended for several months, and in mid-1983 repealed. During the period of martial law the following regulations were in force:

1. The courts martial assumed jurisdiction over civilians who committed a variety of serious criminal offences, and over civilians who worked in military industries or enterprises;

2. Some forms of behaviour were criminalised, such as organising or taking part in a strike, or continuing the activities of a suspended trade union or association;

3. The penalties for a number of offences were made more severe;

4. A summary trial procedure was introduced, and more severe penalties made available; and

5. The administrative authorities were empowered to intern people suspected of being likely to disobey the legal order or engage in activities detrimental to the security of the state.

Most of the provisions introduced in penal legislation during the period of martial law have since been revoked. However, some of them were temporarily retained by special statute, and others were incorporated into the existing body of penal legislation. Some of the provisions adopted in the first half of the decade were repealed in 1989, and more are to be revoked. In 1989, capital punishment is likely to disappear or its execution suspended for a period of five years. The work on new penal codification is in progress.

As a general rule, the investigation of offences is dealt with by the police with the oversight of the public prosecutor. In serious offences the investigation is conducted by the public prosecutor personally but even in these cases responsibility is often transferred to the police. There are also some administrative authorities, for instance those dealing with tax, customs, forest, health and trade, who have strictly limited investigative powers. Only a small proportion of cases dealt with by the courts are thus investigated. The police operate under the supervision of the Ministry of the Interior. In the case of a few offences such as theft by a family member, insult, simple assault etc., criminal proceedings may be initiated and the indictment brought to the court by the injured person. The final decision as to the termination of a preliminary investigation is made by the public prosecutor. This official may decide to drop a case, most frequently because no suspect is traced or for lack of evidence. The official may instead write an act of indictment and bring the case to court. If the offence is not serious and the circumstances of an offence committed by a previously unconvicted offender are clear, the prosecution may be conditionally suspended. This way of dealing with petty offences, introduced in the current Penal Code, is used for a fifth to a quarter of cases where an offender's guilt

has been considered to have been established. The court may also decide to suspend prosecution conditionally. Recourse to this decision is less frequent; in 80-90 % of cases where the prosecution is suspended, this decision is made by the public prosecutor.

For the great majority of cases the regional court is the court of first instance. In these cases the regional court is constituted as a panel of three judges: one professional judge, who presides during the hearing the sentencing, and two lay magistrates. The district court deals with very serious offences, as well as appeals from the regional court. The Supreme Court serves an appellate function in relation to cases adjudicated in district courts acting as courts of first instance.

All professional judges as well as lay magistrates are independent of the executive. The budget for the courts is provided by the Ministry of Justice.

The Polish criminal justice system adheres strictly to the legality principle, which means that there is a duty to investigate and prosecute all known offences and offenders. However, it should be noted that the Penal Code defines an offence as a socially harmful act prohibited by the criminal law. Such a definition provides some room for the de facto discretion of the police and the public prosecutor in deciding if an act which is trivial per se is a formal violation of the law, and should thus be labelled as an offence and proceeded against.

The minimum age of criminal responsibility is seventeen in Poland. However, in some circumstances a sixteen-year-old offender may be tried in a court of general jurisdiction as an adult. The cases of younger juveniles who commit offences, or who are in need of care and protection, are dealt with by the regional family courts according to a special procedure adopted in 1982.

Since 1955 the prison service has operated under the supervision of the Ministry of Justice.

II. Statistics

II.1 Selected offences

Intentional homicide. This category includes infanticide. There were 538 cases of intentional homicide reported during 1986. Between 1980 and 1986, the number of such cases annually varied between 520 and 713. In 1986, 392 people were convicted of intentional homicide. The number of such people varied between 277 and 392 during the period.

Assault. 18 787 assaults were reported during 1986. This figure is about 16 % higher than the comparable figure for 1980 (16 220), but it was about 3 % lower than that for 1984 (19 353). A similar trend is described by the number of people suspected of committing assaults. The number of people convicted of assault was much lower and followed a different course over time. From 1980, when 12 844 people were convicted of the offence, the number fell to 8 052 in 1984 (a decline of 37%). Then the figures started to rise, reaching 11 242 in 1986 (a 28 % rise from 1984). The above figures include simple assaults, inflicting harm, participating in a fight, beating, and finally assault of a police officer while on duty. They exclude petty assaults in which a case is brought to court by a complainant.

Robbery. 6 014 robberies were recorded in 1986. This figure is roughly 20 % higher than in 1980 (4,829), but 32 % lower than in 1984 (7 960). The number of those suspected of robbery was stable from 1980 to 1983. The 1986 figure (4 946) is 39 % lower than that of 1984 (6 895). In 1986, 3 083 people were convicted of robbery. No clear trend over the period is distinguishable.

Theft. 234 630 thefts were reported in 1986. This figure is about 22 % higher than the comparable figure for 1980 (183 293) but 26 % lower than 1984 (295 517). The number of those suspected of theft, after remaining stable from 1980 to 1983, declined thereafter, and by 1986 (89 649) was 32 % lower than in 1984 (118 663). In 1986, 44 964 people were convicted of theft. The number convicted of this offence has been generally in decline since 1980 (61 394). Petty thefts, of property valued

less than 5 000 zloties, are transgressions and do not feature in the figures.

II.2. Sanctions

For all offences dealt with by the courts in 1986, a total of 97 567 non-custodial sanctions were imposed. Most of these (46 812, 48 %) were suspended sentences of deprivation of liberty. 22 103 sentences limiting liberty were imposed, of which 6 147 (28 %) took the form of a community service order. Fines as a separate sanction were applied to 28 520 offender. This figure represents 29 % of non-custodial sanctions.

In 1986, the penalty of immediate deprivation of liberty was imposed on 55 457 people (36 % of all sanctions). Of these, 72 were sentenced to 25 years of deprivation of liberty (a penalty which replaced life imprisonment in the Penal Code of 1969). The mean length of prison sentences was 23,7 months in 1982, 24,0 in 1984 and 25,1 in 1986.

In 1986, 13 people were sentenced to death. In 1987 there were 7 such sentences, but none in 1988.

The total prison population on 31 December during the period was as follows:

year	number	number/100,000 population
1980	99 638	265
1981	74 807	207
1982	79 783	219
1983	85 295	232
1984	76 164	205
1985	110 182	295
1986	99 140	264
1987	91 140	241
1988	67 824	179

Among people incarcerated on 31 December 1986, 23 % were remanded in custody, 73 % were sentenced, 2 % were imprisoned for fine default, and 2 % were serving sentences for transgressions. The number of those incarcerated varied considerably during the period. This is the

result of opposing tendencies in penal policy. On the one hand relatively more people were sentenced to the deprivation of liberty, and for longer terms. On the other hand, several amnesty laws were passed which reduced or nullified the impact of the majority of sentences imposed (in 1981, 1983, 1984 and 1986). As recently as 1988 a policy was initiated which aimed at a considerable reduction of the prison population.

There are no data available on admissions to prison.

II.3. Personnel and resources

Poland reported the following numbers of personnel engaged in crime control duties on 31 December 1986:

policemen: no data available.

public prosecutors: 3 304, of whom 2,174 (66 %) were male and 1 130 (34 %) female. Prosecutors are engaged not only in crime control duties but also in civil, administrative and crime prevention activities.

professional judges: 4 595, of whom 2 013 (44 %) were male and 2 582 (56 %) were female.

lay magistrates: 72 872, of whom 44 452 (61 %) were male and 28 420 (39 %) were female. Both professional judges and lay magistrates deal with civil as well as criminal matters.

prison personnel: 22 103, of whom 342 were classified as management staff (2 % of whom were female). 11 836 were described as custodial staff, of whom 3 % were female. 3 580 were labelled treatment staff (of whom 48 % were female), and 6 345 were "other" staff, of whom 27 % were female.

According to the figures reported, the budgetary resources allocated for the various criminal justice agencies were as follows in 1986:

police: no data available.
prosecution: 4 144 341 000 zloties (447 070 USD[16])
courts
(excluding the Supreme Court): 10 420 304 000 zloties (1 124 000 USD)
prisons: 18 385 860 000 zloties (1 983 370 USD)

The budget of the Ministry of Internal Affairs, which covers, inter alia, police expenditure, amounted to 137 227 165 000 zloties (14 803 340 USD) in 1986.

[16] 1 USD = 9270,0083 zloties.

PORTUGAL

I. Background

Following the Revolution of April 1974, Portugal has promulgated a new Penal Code and a new Code of Penal Procedure. The new Penal Code was implemented in 1983 and the Code of Penal Procedure in 1988. Over the period covered by the Third Survey, the police are not entitled to terminate a case.

The Portuguese system follows the principle of legality. The public prosecutor is entitled to start the public action, with the following exceptions;

a) in the case of "private offences" (crimes particulares), the victim has to present a complaint and make an accusation before the public system can be set in motion;
b) in the case of "semi-public offences" (crimes semi-publicos), the victim has to present a complaint to start the public action;
c) in the case of "public offences" (crimes publicos), the public prosecutor may start the public action but the victim may also give notice of the facts to start a public action.

In cases (b) and (c), the victim has a separate right to make an accusation even if the public prosecutor has abstained from prosecution.

If the offence is a less serious one (the maximum punishment is no more than three years' imprisonment) a preliminary enquiry is conducted by the police under the supervision of the public prosecutor. For more serious offences, the process is carried forward by the investigating judge.

The minimum age of responsibility is sixteen years. Those aged between sixteen and twenty are liable to a different set of penal arrangements than the adult offender.

II Statistics

II.1 Selected offences

Attempts are counted as crimes, and criminal statistics are based either on police reports or on court reports.

Intentional homicide. The level of intentional homicide tended to increase from 1980 to 1986, numbering 475 in 1986. In the same year, 301 persons were suspected, and 234 convicted, of this crime.
Assault. The total number of assaults declined between 1980 (1 403 cases) and 1986 (985 cases). In 1986, 980 persons were suspected and 2 442 were convicted in the criminal courts. (Police and court statistics are clearly anomalous, and seem to be based on different definitions of an assault at different stages.)

Robbery. There were 1 733 recorded robberies in 1980 and 3 259 in 1986. In 1986, 819 people were suspected, and 204 convicted, of this crime.

Theft. 39 108 thefts were recorded. Major thefts, including motor thefts, make up 81 % of this total. The total number of recorded thefts increased by 74 % between 1980 and 1986, while major thefts increased by 85 % over the same period. In 1986, 6 654 people were suspected and 3 874 were convicted of theft.

II.2 Sanctions

Sanctions for adults convicted in 1986 are divided between deprivation of liberty (26 %), imprisonment with the option of fine (22 %), unconditional fine (24 %), conditional fine (9 %), and warning or admonition (19 %). The new Penal Code came into effect in 1983. Thus, comparison will be made only between 1984 and 1986. The total number of people convicted in the criminal courts was 14 % higher in 1986 than in 1984. The four major categories of conviction in 1986 were, in decreasing order, theft, disobedience or resistance to public authorities, fraud (including writing cheques without the necessary funds) and assault.

The prison population increased dramatically between 1982 and 1984 (by 60 %), stabilising between 1984 and 1986. 8 165 people were imprisoned on 31 December 1986. However, the number of people in prison awaiting trial or sentence continued to rise between 1984 and 1986 (by 13 %). In 1986 they represented 44 % of the prison population. The number of sentenced prisoners decreased between 1984 and 1986. The decrease was particularly marked among those sentenced to short terms of imprisonment. Of all admissions to prison in 1986, 81 % were of adults (i.e. those aged 21 or over). Of all convicted prisoners, adults comprised 92 %.

Probation was introduced in the new Penal Code, but its use is as yet numerically insignificant. 1 789 people, adults and juveniles, were paroled from prison in 1986. The numbers of people so released have increased by 41 % from 1982.

II.3 Personnel and resources

The number of police personnel rose by 8 % between 1982 and 1986. The number of prosecutors increased by 9 %. For judges, figures are given only for 1984 and 1986, over which period their numbers rose by 8 %. The staff of adult prisons comprise management staff (2 %), custodial staff (68%), treatment staff (7 %) and others (23 %). The number of prison places increased by 7 % between 1982 and 1986.

In 1986, budgetary resources amounted to 1 946 124 000 escudos (13,5 million USD[17]) for the police, 1 877 906 000 (13 million USD) for the prosecution and courts (+168 % at current prices between 1982 and 1986) and 3 900 846 000 (27 million USD) for prisons (+172 %).

III Selected Issues

Recidivism. The response to the Third Survey provides data on former convictions of convicted people entering prison from a situation of freedom: 42 % of these have previous convictions.

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[17] 1 USD = 144,00 escudos.

Crime prevention. As a result of the implementation of the new Penal Code and new Code of Penal Procedure, new measures were implemented during the period (for example probation), and new departments were set up. A special reference is made to the Institute for Social Reintegration, created in 1983. The Institute carries out its activity in coordination with the public administration, at a central, regional and local level, and in the fields of education, social security, labour and employment, health and habitation, private entities whose activities or objectives fall within the goals of social integration, and international organisations operating in the same field.

SCOTLAND

I. Background

The most important legislation remains the Criminal Procedure (Scotland) Act 1975 and the Criminal Justice (Scotland) Act 1980. Children under 16 are dealt with in accordance with the Social Work (Scotland) Act 1968. The minimum age of criminal responsibility in Scotland is eight years. Suspected young offenders are normally dealt with in children's hearings before panels of three, unless any of the interested parties decline. The procedure here is considered to constitute a civil proceeding. The central official in such hearings is the Recorder. While adult proceedings in Scottish courts are adversarial in nature, proceedings in hearings are not.

Full adulthood, in terms of the availability of the complete range of adult sanctions, is reached at the age of twenty-one. In historical contrast to England and Wales, the functions of investigation and prosecution have been separated. The recent English changes bring that system into closer similarity with the Scottish in principle, but the institutions and process remain distinct. For most offences in Scotland, the investigation is carried out by the police. The public prosecutor (procurator fiscal) has discretion about whether to prosecute in any criminal case. The police do not prosecute under any circumstances. In most cases where there is sufficient prima facie evidence, prosecution ensues, although in recent years there has been increased use of discretion at the prosecution stage.

The High Court of Justiciary tries such crimes as murder and rape; the sheriff court deals with less serious, and district courts with minor offences. Criminal cases are heard either under solemn procedure, when proceedings are taken on indictment and the judge sits with a jury of 15 members, or under summary procedure, when the judge sits without a jury. All cases in the High Court and the more serious ones in sheriff courts are tried by a judge and jury. Summary procedure is used in the less serious cases in the sheriff courts and in all cases in the district

courts. Judges in the district courts are lay magistrates. In Glasgow there are three full-time salaried lawyers ho act as stipendiary magistrates. Scotland's six sheriffdoms are further divided into sheriff court districts, each of which has a sheriff or sheriffs, who are judges of the court. Scotland's supreme criminal court is the High Court of Justiciary. This acts as both a trial and an appellate court. . There is no further appeal.

Those charged with serious crimes and detained in custody must by law have their cases brought to trial within 110 days of the date of their committal to prison. Those released on bail must have their cases brought to trial within 40 days of their first court appearance.

Jury decisions in Scottish courts allow a "not proven" verdict in addition to those of guilty and not guilty. Conditional discharges are not available to Scottish courts as they are elsewhere in the United Kingdom.

II. Statistics

II.1. Selected offences

Intentional homicide remained roughly constant during the period. There were 59 such offences recorded in 1980 and 65 in 1986, the intervening years having figures fluctuating within the same range.

Assaults rose from 4 245 in 1980 to 6 243 in 1986. They are not divided into minor and major, so it is impossible to say at what level of seriousness the offences were not marked.

Robbery rose modestly from 3 723 offences in 1980 to 4 101 in 1986.

Total recorded crimes: rose from 724 671 in 1980 to 822 370 in 1986. The principal contributors to this rise were the residual category "other crimes" (75 250 in 1980 to 105 340 in 1986) and theft (260 316 in 1980 to 311 949 in 1986).

II.2. Sanctions

In 1982, 27 251 offenders were formally warned by the police. The number remained at a similar level in 1984 (26 896). Full figures for 1986 were not yet available at the time of the Third Survey. The total number of those convicted by Scottish criminal courts fell from 215 718 in 1982 to 184 276 in 1986. The fall is attributable only to a small part to an increase in acquittals (from 17 329 in 1982 to 20 045 in 1986). Overwhelmingly the most frequent sanction was the fine, imposed on 123 210 people in 1982 falling to 103 454 in 1986. The number of adults placed on probation rose from 1 228 to 1376, and the number of juveniles from 1 454 to 1 555. The total number of sentences involving "control in freedom" (i.e. sentences with continuing supervision or involvement with offender) rose from 2219 to 2 861. The total number of "warnings/admonitions" (including suspended or conditional sentences) fell from 13 403 to 10 168.

The total daily average prison population was 4 891 in 1982, 4 753 in 1984 and 5 588 in 1986. Of these, some three-quarters were imprisoned under sentence. The average length of time in detention awaiting trial was 2,7 weeks in 1982, 3,1 weeks in 1984 and 2,9 weeks in 1986. The average length of sentence served was 2,4 months in 1982, 2,3 months in 1984 and 2,4 months in 1986. This figure includes fine defaulters which means that it is not comparable to the figures for England and Wales. The total number of prison admissions rose from 30 805 in 1980 to 41 331 in 1986. About half of this increase is attributable to increases in remand admissions. Total drug-related admissions under sentence rose from 69 in 1980 to 521 in 1986. The rate of prison admissions showed a major surge from 1984 to 1985. Total admissions in those two years were 36 008 and 43 523 respectively. This is noteworthy because it reflects the major change in England and Wales at the same time, without any common legislation to explain the coincident change. The group whose rate of prison admissions increased most during the period were juvenile males. In 1983 (the first year for which full information on this group was available) the number of admissions was 11 523, and by 1986 it was 15 267.

The convicted prison population showed a less substantial rise than the total prison population. It went from 4 152 in 1980, through 4 044 in 1982 to 4 570 in 1986. Taken with other data, this means that the primary reason for the rise in Scottish prison population between 1982 and 1986 is the increased use of presentence custody. While the juvenile male rate of admissions went up between 1982 and 1986, their contribution to the prison population went down, from 1 298 in 1980, through 1 242 in 1982 to 1 051 in 1986. More juvenile males came to get a taste of prison, but the length of their detention got shorter.

II.3. Personnel and resources

The total number of police personnel in Scotland rose only slightly during the period, from 13 214 to 13 428. The total number of prosecutors stayed virtually identical, being 226 in 1982 and 223 in 1986. The number of professional judges rose from 109 in 1982 to 119 in 1986, and the number of lay judges fell from 1 126 to 972 over the period. Total custodial staff in adult institutions rose from 1 910 in 1982 to 2 210 in 1986. The bulk of the increase was in custodial staff, whose numbers increased from 1 512 in 1982 to 1 797 in 1986. In juvenile institutions, the total increase was from 925 to 1 039. The whole of this increase was due to the increase in custodial staff, from 714 to 838. No data are available for money amounts expended on the system.

III. Selected issues

At a national level, new Government initiatives (eg "Urban Partnerships" and "Safer Cities") have been recently introduced which are concerned with a general improvement in the quality of life in targeted local areas. These initiatives place crime prevention as one of the priority issues. There are also locally initiated "safe neighbourhood" schemes.

All Scottish police forces have community involvement branches in operation. High priority is given to this work and its promotion of Neighbourhood Watch schemes and development of local crime prevention panels.

The Scottish system of children's hearings has received much-merited international interest. During the period 1980-1986, the number of juveniles, particularly juvenile males, being admitted into custody has increased markedly, albeit for somewhat shorter periods of time. In-depth study of the Scottish scheme of juvenile system may reveal whether support for innovative Scottish scheme of juvenile justice must now be qualified in the light of experience.

SPAIN

I. Background

The origin of the relevant Spanish law is found in the 1848 Penal Code which served as a basis for the 1944 Francoist Code. Following the new Constitution in 1978, an important reform of the Penal Code took place in 1983. A new Criminal Code is now in preparation.

The basis for criminal procedure is found in the 1882 Ley de Enjuiciamiento Criminal, many times revised since. The reform of 1982 combines features of the 1882 law together with the precepts of the new constitution. Capital punishment was abolished by the 1978 Constitution. The draft new Penal Code plans to abolish life imprisonment. The maximum term of imprisonment which may be imposed would be thirty years.

Police duties are carried out by three different forces: the Guardia Civil, the Municipal Police and the National Police. The Guardia Civil is organized as a semi-military force responsible primarily for peace and order. It carries out judicial police work. Police investigation and private complaints are passed on to the prosecutor. If an offence is identified, a decision to prosecute is then reached. The system operates in accordance with the principle of legality. Further investigation may take place with the oversight of the investigating judge. Detention on remand may last for up to four years in the most serious cases.

Full adult responsibility comes at the age of 18.

II. Statistics

II.1 Selected offences

It appears that attempts are not counted as crimes in the police statistics.

Intentional homicide. 800 intentional homicides were recorded in 1984. In the same year, 857 people were arrested for this offence and 326 were sentenced. The number of people sentenced for intentional homicide rose by 25 % between 1980 and 1984.

Assault. In 1984, police statistics record 9 983 assaults, 4 149 people were arrested and 3 020 sentenced for this offence. The number of those sentenced for assault rose by 30 % between 1980 and 1984, which was the last year for which data are available.

Robbery and theft. The Spanish response notes 514 705 cases of robbery in 1986. This figure probably incorporates what is termed theft elsewhere.

In total, police statistics report 879 784 offences in 1986, an increase of 49 % from 1983. 179 359 people were detained by the police in 1986, an increase of 33 % from 1983.

II.2 Sanctions

According to the response to the Third Survey, 42 098 adults were sentenced to prison in 1984, an increase of 25 % on 1982. 126 people were sentenced to life imprisonment. The response yields no information on prison population. According to data published by the Council of Europe, the prison population in Spain amounted to 29 344 on 1 September 1988, a detention rate of 76 per 100 000 population.

II.3 Personnel and resources

In 1986 there were 689 prosecutors, an increase of 19 % from 1982. There were 963 magistrates dealing full-time with criminal cases (+17 % since 1982).

Budgetary resources at current prices rose between 1982 and 1986 for prosecution (+29 %), for courts (+30 %) and for prisons (+45 %).

SWEDEN

I. Background

The basic laws of Sweden in the field of criminal justice are the Code of Judicial Procedure from 1942, the Penal Code from 1962 and the "Law with Special Regulations for Young Offenders" of 1964. Furthermore, some administrative laws of 1980, especially the Social Service Law and the "Law with special rules for the care of young people" are of importance for the handling of juvenile delinquents and the "Law on special care for drug abusers" for offenders with alcohol and narcotics problems.

It is a historical tradition in Sweden that the execution of state authority is vested in special offices, bureaux, or authorities outside the ministries. The ministries (e.g. the Department of Justice), which are in charge of planning and budget to be presented to Parliament, have no power to intervene in the daily work of these different authorities. This means that the authorities within the criminal justice system are independent from the political system and have only to obey the rules accepted by Parliament.

In the field of criminal justice, the authorities of particular relevance are the Police Board, the Chief State Prosecutor, the Prison Board, and the social welfare boards. While the last of these are organised on a municipal basis, the others are state authorities. With the exception of the Chief State Prosecutor, all authorities are headed by committees consisting of both representatives from the authority itself and politically-appointed members from outside the authority.

The ordinary court system, which is also independent of the ministries, has three levels (district courts, courts of appeal and the Supreme Court). All cases start with a full hearing in the district courts. Sweden does not have a jury system, but in the two lower courts lay judges (appointed by the county or municipal council upon the recommendation of local political parties) participate on an equal footing

with professional judges. In addition, there is an administrative court system which may be involved in certain criminal cases concerning juveniles and addicts, handled according to the social welfare laws.

Swedish law makes no distinction between felonies and misdemeanours, which must be taken into account when Swedish crime statistics are compared with those of other countries. If the law states that a certain behaviour is punishable, then this behaviour is a crime or offence in Sweden regardless of how petty it may be (e.g. riding a bicycle without lights after dark).

According to legal theory, the police have little discretionary power and have a duty to proceed whenever there is enough evidence that a crime has been committed. Similarly, a prosecutor has a duty to prosecute whenever it is believed that there is enough evidence to sustain a conviction. However, there are now so many exceptions to the latter rule that it is questionable whether Sweden has a legality or an opportunity based system.

Practically all criminal cases are handled by the police. If an investigation leads to a person being suspected of a crime the further handling of the case depends upon the age of the suspect, the seriousness of the offence and whether "public interest" would be served by proceeding. Since the publication of the report on the results of the Second United Nations Survey, some changes have been made. If the suspect is aged less than fifteen, the police could hitherto only refer the case to the relevant Social Welfare Board. Since 1985, the police have been allowed to make an ordinary investigation in such cases (although there are certain restrictions, especially if the child is under twelve), but any decision as to measures rests with the Board. Furthermore, since 1985 the prosecutor may close a case without any investigation if
a) the cost of the investigation is anticipated to be exorbitant in relation to the importance of the case and the criminal measure is expected to be a fine, or
b) that the result of the investigation is anticipated to be a warning ("waiver of prosecution") and there seems to be no great public or personal interest served by completing the prosecution.

A prosecutor may decide to terminate a case by means of a "waiver of prosecution" and give the offender a warning. The condition for this is that the offender has admitted his or her guilt. For offenders between fifteen and eighteen the normal process is that the prosecutor "waives prosecution" and refers the case to the social authorities.

Petty offences (especially minor traffic offences with no immediate risk to life or property, and also petty theft from shops) may be handled by the police with a more or less informal warning. The police may even, for certain petty offences, issue a "ticket" with a fixed penalty to be paid. In more serious cases, the police must refer the case to the prosecutor. If a suspect is found guilty and the offence is deemed to merit only a fine, it may be suggested in writing to the suspect that guilt is admitted and a "day-fine" is paid (summary penalty). If the suspect consents to this, this outcome has the same status as a court sentence. If the suspect does not consent, the prosecutor will bring the case to the district court.

The relative number of cases decided by the criminal courts has been declining since the 1940s, and to a considerable extent police and prosecutors have replaced the courts as decision-makers in many cases. While in 1940 *all* criminal cases were handled by the courts, the figure today is less than 20 %.

II Statistics

II.1 Selected offences

Intentional homicide. In the report on the results of the Second Survey, it was stated that 394 cases of intentional homicide were reported, but that this figure included both completed crimes and attempts to murder, manslaughter, and assaults leading to the victim's death. The comparable figure for 1986 is 536, and the increase since 1980 is 36 %. However, the majority of the recorded offences are attempts and many of them will, as the police investigation advances, be reclassified to lesser offences. The most reliable figure is probably that showing the number of completed intentional homicides, which were:

Year	Number of homicides	People sentenced
1980	135	91
1981	146	104
1982	125	106
1983	121	85
1984	116	90
1985	126	76
1986	147	132
1987	134	96

From this it can be seen that the number of people killed has not increased over the period. The number of those sentenced annually varies between 76 and 132. During the period under consideration 14 cases of infanticide have been reported (which are included in the figures above). Three-quarters of all non-intentional homicides are the result of traffic accidents. The number declined from 426 in 1980 to 334 in 1986 and 324 in 1987.

Assault. There has been a steady increase since 1980 in the number of recorded assaults - from 24 668 in 1980 to 32 805 in 1986 (and 34 757 in 1987). These figures include all assaults with the exception of those against a police officer and those resulting in the victim's death. In 1986, 6 327 people were found guilty of assault, which is 31 % more than in 1980.

Rape. Recorded instances of this crime are not numerous, but the recorded incidence has shown a considerable increase over the last 40 years. In 1980, 885 cases were reported and in 1986 1 046 (in 1987, 1 114). The number of those found guilty in 1986 was 156.

Robbery. In the report on the Second United Nations Survey, it was noted that robbery had increased by no less than 46 % between 1975 and 1980. This increase has not been maintained during the 1980s. In 1986 the number of cases recorded was 3 806 (the figure for 1987 was 3 939), which represents an 11 % increase since 1980. The number of people found guilty in 1986 was 508.

Theft. The number of recorded thefts has continued to increase even during the 1980s. In 1986 there were 667 057 recorded cases, which is 30 % more than in 1980. The figure includes 152 000 burglaries, 55 000 car thefts (mostly "borrowing"), and 152 000 thefts from motor vehicles, 8 000 motorcycle and moped thefts, 92 000 bicycle and 2 000 boat thefts, and 62 000 cases of shoplifting. The number of those found guilty of theft was 33 937 in 1986, which was 15 % more than in 1980.

II.2 Sanctions

In 1986 the total number of convictions (including decisions by authorities other than the courts) was 346 194, which was 11 % less than in 1980. The decrease is primarily due to fewer cases of traffic violations and other infractions outside the Penal Code. Only 19 % of those people convicted were sentenced by the court. In 22 % of the cases, the prosecutor imposed a day-fine, and in a further 2 %, the prosecutor issued a warning (waiver of prosecution). In the remaining cases (53 %), the police issued a fixed penalty notice. As will be understood from the above, fines were by far the most common sanction (83 %). Of these, two-thirds were fixed penalties for traffic or similar violations. The rest were fines for more serious offences, where the fines are meted out according to the day-fine system. The rest of the measures can be divided into three:

a) measures involving incarceration (imprisonment or mental or youth institutions), 16 000;
b) control in freedom (mainly probation), 8 000;
c) warning, 24 000.

In 1986, 14 188 people sentenced to imprisonment were admitted to Swedish prisons. Of these, 70 % had been sentenced to less than six months' imprisonment, 15 % from six to eleven months, and 14 % to one year or more. Between 1980 and 1986, twenty-three people were given life sentences. The number of women admitted to prison in 1986 was 644 (4,5 %), and of juveniles between 15 and 18, 30 (0,2 %). The prison population as of 31 December 1986 was 3 379. The number of those admitted to prison serving sentences for non-payment of fines was less than 10 in 1986.

The figures above do not include those arrested and/or awaiting trial. Until April 1988, a suspect arrested by the police could be held on a prosecutor's order for up to nine days before being brought before a court. During this time, the prisoner could be transferred to a detention unit within the prison system, or kept in a police cell, according to the convenience of the police and prosecutor. The number kept in police cells was (and is) not reported, but in 1986 31 890 people were admitted to the pre-trial detention units within the prison system. In April 1988, the rules were changed.

Sweden reports 76 prisons operating in 1986. Of these, 68 had a capacity of less than 100 inmates (usually 20-40), and 8 between 100 and 200. Although in 1988 the number of admissions was the largest ever, and the population was higher than hitherto, there is no overcrowding problem in Swedish prisons.

II 3. Personnel and resources

In 1986, Sweden reported the following personnel working in the criminal justice system:

Police officers 17 390

Custom and tax officers 2 000

Prosecutors 653

Professional judges in the district courts 620 (of whom 223 deal with criminal cases)

Lay judges approximately 7 500

Prison and probation authority

a) Prisons - Administration 724
   Custodial staff 608
   Treatment staff 4 393
   Others 1 603

b) Probation and parole 1 120 (of whom approximately 250 were administrators)

Lay supervisors	5 700

The resources were allocated in the following manner in 1986:

Police	963 000 000 USD
Prosecution	49 000 000
Courts	280 000 000
Prisons	254 500 000
Parole/probation	36 000 000

The total cost of the prison system, including the construction of new prisons during the year, was 334,000,000 USD.

III Selected issues

Crime prevention. The response notes that special care and protection initiatives for children has been a part of the Swedish social welfare policy for a long time. The main features of the Swedish system are that the work is done locally by Social Welfare Boards and that treatment within the family or *of* the family and foster homes are used, but very rarely boarding schools or other types of institution. As a result, there are very few young offenders in the most criminally active age group (between fifteen and eighteen) in institutions or prisons.

It may be pointed out that crime - especially theft, burglary, robbery and assault - continued to increase during the 1980s, although Sweden has had no unemployment or other similar social problems which are often considered to cause increases in crime.

TURKEY

I. Background

Turkey did not include in its reply any background data on the Turkish criminal justice system.

II. Statistics

The reply from Turkey did not include any figures on crimes investigated by the police or on those prosecuted or convicted. The crime-specific data in the next section are thus based on prisoner statistics only.

II.1 Selected offences

Intentional homicide. The number of prisoners incarcerated for homicide remained fairly stable in the time period 1981 to 1986. It was 2 931 in 1981, fell to 2 566 in 1983 and was 2 912 in 1986.

Assault. 4 203 of the 36 920 people serving a prison sentence in 1981 were convicted of assault. During the following years the number rapidly decreased but in 1986 the number of prisoners convicted of assault rose to 3 294.

Robbery. Of the 34 931 prisoners in 1986, 574 had been convicted of robbery. This figure has remained fairly stable - between 510 and 580 - in the years covered by the survey.

Theft. The largest category of prisoners is made up of those serving a sentence for theft - 4 635 in 1981 and 6 387 in 1986. The trend has been rising since 1984, when the number of prisoners serving a sentence for theft was 5 054.

II.2 Sanctions

Probation is used primarily when dealing with juveniles: of the 48 611 decisions on probation made in 1986 only 11 % related to adults. The proportion of adults, however, increased by 5 % over 1982..

The prison population (convicted prisoners) was 36 920 in 1981. In the following years the number of prisoners decreased and reached a low of 27 929 in 1984. In 1986 the number of prisoners was 34,931.

The figures on the use of parole reflect the fluctuations in the number of prisoners. In the years 1982, 1984 and 1986 the number of paroled prisoners was 34 757, 29 594 and 46 944 respectively.

II.3 Personnel and resources

The number of prison staff increased from 9 462 in 1982 to 11 831 in 1986. In that year 2,1 % of staff were assigned to treatment duties. The total number of prisons was 640 in 1986.

The strength of the police force was in the years 1982, 1984 and 1986 3 673, 3 774 and 3 781 respectively. In 1986 there were 68 female police officers. Law enforcement tasks are also handled by the customs authorities, the military police (National Guard) and the Municipal Wardens who deal with traffic offences.

UNION OF SOVIET SOCIALIST REPUBLICS

I. Background

The main principle upon which the Soviet system of criminal justice and criminal procedure is constructed consists in sharing the legislative jurisdiction between supreme bodies of power in the USSR and its constituent Union Republics, a relationship which stems directly from the Union Republics' sovereignty secured by the Constitution. The all-Union legislation defines general provisions, concepts, and principles of criminal legislation and those of criminal procedure such as the concept of crime, legal grounds, and general procedure for taking legal action against an offender or exonerating someone from criminal liability, the range of criminal punishments and their maximum and minimum levels of severity, and definitions of the participants in criminal proceedings. The all-Union law makes direct provisions as regards liability for military, state and a number of grave crimes. Other than that, it is the legislation of the individual Union Republics (both Criminal and Criminal Procedure Codes) adopted in the early 1960s that defines the essential elements of specific crimes, categories of criminal punishment, and procedures of the criminal judicature, with the national features of each republic taken into consideration.

Criminal procedure in the USSR begins with the initiation of legal action in a criminal case. The Code of Criminal Procedure grants the right of initiating criminal cases to the courts, public prosecutors, investigators, and bodies of preliminary investigation, provided that there is sufficient evidence that points to a suspect. Investigation of a crime may be conducted in the form of inquiry. This is carried out by law enforcement agencies in a limited number of crimes not classified as grave or by law enforcement agencies, correctional institutions administration, military units command, and in all crimes during the first ten days after initiating a criminal case. A preliminary investigation may be carried out by the investigators of the office of the public prosecutor, the State Security Committee and law enforcement agencies.

The overwhelming majority of crimes is investigated by personnel of the law enforcement agencies guided in their duty by the Criminal Procedure Code. In general the law envisages a term of investigation of up to two months. However, the territorial and regional-level public prosecutors possess the right to extend this term to four months. Any further extension is possible only in exceptional cases .and requires approval by the Procurator of a Union Republic Procurator-General of the USSR or his or her deputies. The law makes no provision concerning the maximum term of an investigation.

If an investigator considers that a case should be brought to trial or dismissed on grounds other than the exoneration of a person, this view is submitted to the public prosecutor for ratification or reversal. The public prosecutors' hierarchy parallels that of the administrative-territorial division units of the country; thus a prosecutor is only answerable to a prosecutor of a higher level. The entire system of the prosecution bodies is headed by the Procurator-General of the USSR.

In some criminal cases, there also exists a simplified procedure of pre-trial preparation of materials, a so-called protocol form. This is conducted by a body of preliminary investigation within 10 days in respect of obvious offences of lesser seriousness (such as petty embezzlement of state and public property, deliberate evasion of the payment of child support, etc.) If the body of preliminary investigation fails to establish substantial evidence in such cases within 10 days, it must initiate legal proceedings and carry out a full-scale investigation that has to be completed in 20 days.

According to the Constitution, criminal justice in the USSR is exercised by the court alone. No one may be adjudged guilty of a crime and subjected to punishment as a criminal except by the sentence of a court.

Administration of criminal justice falls within the jurisdiction of the court of first instance. As a rule, this is a district (city) people's court; however, in cases of special social importance the hearing can be conducted by the territorial and regional courts as well as those of autonomous and Union republics, and also by the Court Collegium of the Supreme Court of the USSR. Any court sentence, with the exception of those passed by the Supreme Courts of the USSR and the

Union Republics, may be appealed against by the convicted person, the victim, their lawyers or the prosecution. Appeal is to a higher court. The institution of cassation provides a guarantee of the rights and legal interests of citizens involved in criminal court proceedings. Another major guarantee is provided by the court of supervision whose task is to check and substantiate the verdicts that have been passed and which have the right to commute the sentence or to dismiss the case. A similar right is granted to the Supreme Court of the USSR and to all the courts of second instance.

The selection of personnel and the organisation of judicial work is carried out by the bodies of judicature headed by the Minister of Justice of the USSR. The systematic supervision of lower courts is carried out by the higher bodies of court authority. The judges, however, are independent and subject to the law alone.

As in other countries, the Soviet criminal law and criminal procedure allow, given exceptional circumstances in a case or a defendant's personality, for a milder punishment to be meted out than is envisaged by the relevant statute, and also for dismissal of a criminal case by a court or, with the approval of the public prosecutor, by the investigator or a body of preliminary enquiry.

Judicial procedure in cases of assault and battery resulting in slight bodily harm, and in cases of criminal insult or slander is conducted through private prosecution; the court will initiate legal action only in response to a complaint from the victim, and no preliminary investigation is carried out in such cases. Should the plaintiff and the defendant reach a reconciliation, the case has to be dismissed. In exceptional circumstances, such cases may be initiated by a public prosecutor. In that event, they are conducted according to general rules of criminal procedure. Crimes committed by service personnel and reservists during the course of periodic training are subject to investigation by military prosecutors and trial by military tribunals.

The minimum age of criminal responsibility is established at sixteen, although for a number of serious crimes (such as intentional homicide, rape, robbery, malicious hooliganism) it can be as low as fourteen. However if a juvenile (a person under eighteen) commits a crime that

does not constitute a grave public danger, the court may commute the criminal penalty to measures of educational influence such as reprimanding the person in question, giving a severe reprimand, issuing a warning, transferring the offender to strict supervision by parents or people acting as parents, putting the offender under the supervision of a labour collective or public organization or placing him or her in a specialised educational institution. Under similar circumstances the public prosecutor, or the investigator with the agreement of the prosecutor, may, instead of transferring the case to a court, hand over the case materials to a juvenile commission to arrange educational work. Such commissions have been formed under executive committees of every local Soviet of People's Deputies.

Nowadays, Soviet criminal law and procedure are developing in the direction of raising the level of socialist legality and guaranteeing human rights, and following the path that could be termed decriminalisation, deinstitutionalisation and depenalisation. In particular this is manifested in the decrease of the number of those convicted, from 1 629 500 in 1985 to 679 200 in 1988, a reduction of 47 %.

II. Statistics

Statistics of crime in the USSR have been published since 1985. Between 1985 and 1987 the crime rate has shown a tendency to fall. According to data presented by the USSR State Statistics Committee and the Ministry of the Interior of the USSR the number of recorded crimes decreased from 2 080 000 in 1985 to 1 987 300 in 1986 (a reduction of 4,6 %) and to 1 798 500 in 1987 (a reduction of 13,5 % from 1985). In the corresponding years crimes against socialist property fell from 398 800 to 340 500 to 317 300 (reductions of 14,6 % and 20,4 %); violent crimes from 217 200 to 168,300 to 146 900 (reductions of 22,5 % and 32,7 %); crimes against the personal property of citizens fell from 555 000 to 478 600 to 483 600 (reductions of 13,8 % and 12,9 %); and intentional homicides from 18 718 to 14 848 to 14 651.

In 1988 the general crime situation became dramatically worse, and the crime rate experienced a steady and rapid climb from month to month. In 1988, 1 867 223 crimes were recorded. As compared with 1987, the

number of criminal assaults rose by 42,8 %, robberies by 44,4 %, thefts of state, public or personal property by 25,2 %, intentional grave bodily injuries by 31,6 %, intentional homicide by 14,1%, rape by 5,3 %, car accidents causing injury by 21,8 %. Statistics on juvenile delinquency show a growth of 11 % and those of street crime of 40 %. Assaults on police officers and the manifestations of organised crime have become more frequent. The level of criminality with respect to all crime reached 639 and 657 per 100 000 population in 1987 and 1988 respectively.

II.1 Specific crimes

Intentional homicide and attempts. This category is defined in the response from the USSR as deliberate action or inaction that represents an encroachment on the life of a person causing death (a completed crime) or, although it has not caused death for objective reasons (an attempt), it was committed out of vengeful, hooliganism, personal, mercenary, and other motives.

In the course of 1987, 14 651 such crimes were recorded nationally. This corresponds to a crime rate of 5 per 100 000, with the rate of clearing these crimes reaching 95,3 % (the crime clearance rate is measured as crimes cleared expressed as a percentage of all crimes recorded in the relevant category). In 1988 the number of crimes in this category has increased to 16 710 as compared to 14 651 for 1987 (or by 14,1 %). Such crimes are usually punished by imprisonment; the death penalty is only imposed in isolated instances.

Assault. At present, neither the criminal law nor the forms of statistical reporting of the Ministry of Interior Affairs of the USSR use the concept of "assault". Therefore it is only possible to present an analysis of just one category of crime that could be classified as an assault, namely, the crime of intentionally causing severe bodily harm. The essential elements of such a crime encompass intentional actions aimed at causing injuries to the victim that endanger his or her life, which result in such injuries, or the victim's death. 28 250 crimes in this category were committed in the USSR in 1987 (or about 10 crimes per 100 000 people). In 1988 the number of crimes in this category increased by 31,6% and reached 37 191 in number. These crimes are

mainly punished by imprisonment. The clearance rate for the first half of 1989 was 78 %.

Robbery (including unconcealed theft of state public or personal property). In 1987 the number of such crimes registered in this category was 46 485 (16 cases per 100 000 inhabitants), while in 1988 their number has grown by 44,4 %. Most crimes of this category are the unconcealed theft of personal property (94 % in 1987). 55 813 and 42 085 crimes of this kind were committed correspondingly in 1985 and 1986. The clearance rate for an unconcealed theft of personal property in 1987 was 69 %.

Theft (a concealed misappropriation of state, public, or personal property of citizens). 533 976 cases of theft were recorded in the USSR in 1987, or 188 per 100 000 inhabitants. In 1988 their number increased by 25 %. Most crimes in this category concern thefts of personal property: in 1987 401 599 cases from 533 976 thefts, in 1988 548 524 from 713 807. The clearance rate for thefts of state and public property was 67,8 % in 1987, those of personal property 66.5 %, including thefts from apartments reaching 68,8 %. In 1987 123 400 people were convicted for thefts of personal property from citizens.

II.2 Sanctions

The Soviet law envisages the following types of criminal punishment: imprisonment, exile, deportation, corrective labor without imprisonment; curtailing the right to occupy certain positions and engage in specific activities; fines, dismissal from office; charging the offender with the liability to make up for the damage caused; confiscation of property; stripping the offender of his military rank or special title; and transfer to an educational-labour institution. As an exceptional measure, the law allows the death penalty for a number of especially grave crimes. For most crimes, the norms of the criminal code make provision for alternative types of punishment. It is the task of the court to select one of these based on the circumstances of the case and the personality of the defendant.

The minimum term of imprisonment allowed by law is three months. From 1984 to 1987 the proportionate use of imprisonment as a sanction

has dropped from 49 % to 34 %. This reflects a tendency towards humanization in criminal justice policy and the subordination of the penal institution to the task of reforming criminals. This goal is also served by the imposition of conditional sentences of imprisonment and forced labour, postponement of punishment by imprisonment and related educational measures. The main type of penitentiary for adults sentenced to imprisonment is the corrective labour colony. As a result of a drastic reduction in the use of imprisonment, the number of such colonies is also being reduced (thus, over a hundred institutions of this kind were closed in 1988 alone). As for the corrective labour camps, no penitentiaries of this kind have existed in this country for over thirty years.

Juvenile delinquents sentenced to imprisonment (of which there were 30 000 in custody at the beginning of 1988) are sent to one of 88 educational labour colonies.

II.3 Personnel and resources

Based on reports from the Ministry of Justice, judges on the staff in people's courts and higher courts in 1988 numbered 15 000. At present there are 850 344 people's assessors in the district and city courts in the USSR; in conducting hearings they have equal rights with the judge. Data on other personnel categories of law enforcement agencies and other financial outlays are not published.

III Selected issues

Pre-trial detention. According to the code of criminal procedure, a person who commits a crime punishable by imprisonment may be detained by the investigator or body of preliminary inquiry. The public prosecutor should be informed of this fact within 24 hours and issue a warrant for the person's arrest or sanction his release within the next 48 hours. The term of detention of a suspect may not exceed ten days. The term of pre-trial detention of an accused person may not exceed two months, which may be extended to nine months by agreement of a high level prosecutor. This extension is only available under exceptional circumstances.

It should be pointed out that the practice of detention and of taking a person into custody has tended to decline. The number of these sanctions declined from 749 000 to 402 000 (i.e. by 46,3 %) between 1986 and 1988. With account taken of a defendant's personality and of the circumstances of a case, the investigator, the public prosecutor and the trial court have the right to substitute a milder form of restraint for pre-trial detention. This may be a written undertaking not to leave a place of residence, release on bail with sureties of money or valuables, or with citizens or public organizations acting as guarantors of the accused's appearance at court. A person thereafter sentenced to imprisonment remains in custody in the place of preliminary detention until the verdict comes into force. If sentenced to a non-custodial penalty or acquitted, the defendant is released from custody immediately after the pronouncement of the verdict.

Recidivism. In 1988 recidivism was about 16 %. One of the factors underlying this phenomenon concerns the complications which released convicts encounter in obtaining the right to settle in their former place of residence, in employment and in social adaptation.

UNITED STATES OF AMERICA

I. Background

The beginning of the American criminal justice system was influenced by the cultural and legal heritage of the colonists. Primarily, the American method of crime control and crime sanctions resembled those of England, France and Holland. The colonists were selective in borrowing certain aspects of the criminal justice system, leaving behind those traditions that they deemed unsuitable in the best interests of their colony.

Systematic attempts to reform the criminal justice system were first initiated in the 1920s. The Wickersham Commission's findings helped to identify problems with the existing criminal justice system as well as helped to establish the philosophy of "treating" offenders. In 1967, the President's Commissions on Law Enforcement and Administration of Justice published a report entitled "The Challenge of Crime in a Free Society." The outcome of this report was the enactment of the "Safe Streets and Crime Control Act of 1968" and the establishment of the "Law Enforcement Assistance Administration" (LEAA). Together they were responsible for funnelling millions of dollars into programmes aimed at restructuring various institutions of the criminal justice system. In addition, funds were made available to develop programmes for improving the efficiency of policing, courts and corrections.

The American criminal law has its roots in English common law. In addition, contemporary criminal law reflects constitutional law, federal and state statutes, and administrative law. The U.S. Constitution which was signed in 1787 has a preamble, seven articles, and twenty-six amendments. Though very few parts of the Constitution relate directly to matters pertaining to criminal justice, the Supreme Court and lower court interpretations of its articles and amendments influence criminal law and criminal procedure. Federal statutes framed within the confines of the Constitution apply to all fifty states of the Union. In addition each of the fifty states is governed by its own statutes.

The roots of modern American policing can be traced to the efforts of Englishmen Patrick Colquhoun and Sir Robert Peel. The first modern police organization was established in New York City in 1845. Today, there are more than 40 000 professional public sector police agencies serving city, county, state and national interests. Federal law enforcement agencies include the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the Immigration and Naturalization Service (NIS), the U.S. Marshal Service, the Organized Crime and Racketeering Section (OCR), the Intelligence Division of the Internal Revenue Service (IRS), the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms (ATF), the Customs Service, the Postal Inspection Service, and the U.S. Coast Guard. In addition to public law enforcement agencies there are numerous private police agencies whose personnel far outnumber those in the public sector.

The function of law enforcement and peace keeping is primarily vested with the local city/municipal police departments. However, in larger cities the situation is complicated by the presence of various policing agencies whose jurisdiction and authority cross local as well as state boundaries. For example, New York City has five boroughs with law enforcement agencies which include the new York City Police Department, the transit system police, the public housing authority police, and the New York/New Jersey Port Authority Police. In addition, there are also the New York State Police, private police, and the federal enforcement agencies operating in the city.

Once a suspect is arrested the police are required to issue him or her a warning about self-incrimination, generally referred to as Miranda Warning. This provision is made available to the suspect under the Fifth Amendment (Miranda v. Arizona) to be free from self-incrimination prior to any questioning by the police. An arrest is followed by the booking process which includes recording date and time of arrest, making arrangements for bail in advance of the first court hearing, and the fingerprinting and photographing of the suspect.

There are two separate court systems, federal and state. Federal courts are responsible for enforcing federal laws. Local codes such as those in the Virgin Islands, Guam, and the Panama Canal Zone have a three-tiered system. In a descending order the court system consists of the

U.S. Supreme Court (1), U.S. Court of Appeals or circuit courts (12), and the U.S. District courts (94).

The states maintain their own court system and no two systems are identical. Generally, state courts can be classified in a descending order - state appellate courts or state supreme courts, courts of general jurisdiction (approximately 3 650), and lower courts (approximately 13 000). In 1983, state courts processed approximately 81 million civil, criminal and traffic cases while federal courts heard approximately 250 000 civil and criminal cases.

The prosecutor generally makes one of the four following decisions before an accused comes up for trial:

(a) whether to charge or not to charge a defendant, and if so with what offence;
(b) if a defendant should receive pretrial release or detention;
(c) if a defendant should receive a pretrial diversion (i.e. pre-trial release of an accused person on his own recognizance and /or participate in a treatment program); and
(d) if a defendant's case will be plea bargained or go to trial (plea bargaining is a process by which a defendant in a criminal case gives up the right to go to trial in exchange for a reduction in charge and/or sentence).

Though a right to trial is guaranteed by the Constitution and all indigents have a constitutional right to counsel, the number of cases which eventually result in a trial is a very small (approximately 5 %).

Trial by grand jury, an English common law tradition, is incorporated into the Fifth Amendment of the U.S. Constitution, which states that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a grand jury." A grand jury is employed in the federal system and about half the states.

Among the ideas borrowed from Europe in to the American colonies were punishments such as branding, flogging, and the ducking stool. However, reform measures arising from the humanitarian movement of the 18th century (initiated by such reformers as Beccaria, Bentham, Penn, Rush and others) paved the way for the modern penitentiary. As

with court systems, there are two separate corrections systems in the U.S., the Federal Bureau of Prisons (established 1930) and the state systems. Before federal prisons came into existence, federal prisoners were housed in state prisons. The states have their own prisons (for felony offences), jails (temporary detention, misdemeanour offences etc.), prisons for women, and juvenile institutions. In 1986 there were approximately 520 000 prisoners (of whom approximately 20 000 were women) in about 700 state and federal prisons: 260 000 in 3 500 jails; and 49 000 juvenile offenders in 1 000 juvenile institutions. Also, in 1986 there were 1 968 712 and 300 203 adult offenders under probation and parole supervision respectively. In addition, there were thousands of other offenders restrained in various other diversion and treatment programmes.

II. Statistics

The FBI has been publishing annual official crime data best known as the Uniform Crime Report (UCR) since 1930. The FBI compiles data provided by various local and state law enforcement agencies on various crime categories such as the amount of crime reported, the number of property crimes, violent crimes, classification of offenders by age, sex and race. Violent crimes include murder, forcible rape, robbery and aggravated assault while property crimes include offences such as burglary, larceny theft, and motor vehicle theft. These crimes along with the offence of arson constitute Part I offences. Violent and property crime together constitute the "crime index" per 100 000 population. However, this crime index does not include data on arson as the figures are not accurate. Other minor offences such as fraud, embezzlement, prostitution and gambling are referred to as part II offences. Offences not included in the UCR reports are computer crime, organized crime and white-collar crime.

II.1 Selected Offences

Intentional homicide. This category includes:

a) murder and nonnegligent manslaughter. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicide are excluded. Justifiable homicides are

limited to (1) the killing of a felon by a law enforcement officer in the line of duty; and (2) the killing of a felon by a private citizen.

b) manslaughter by negligence: the killing of another person through gross negligence. It excludes traffic fatalities.

While manslaughter by negligence is a Part I crime, it is not included in the Crime Index.

The figures in Table 29 from 1980-86 indicate total number and the rate per 100 000 population for murders reported to the police. The data suggest that there has been a slight increase in the last couple of years but overall the rates seem to be fairly stable in this category over the last seven years. 19 190 people were arrested for murder in 1986.

Table 29. Murders Reported to the Police (USA)

Year	Number	Rate/100 000 Population
1980	23 040	10,2
1981	22 520	9,8
1982	21 010	9,1
1983	19 310	8,3
1984	18 960	7,9
1985	18 980	7,9
1986	20 610	8,6

Other violent crime. Crime categories which are included in this category are rape, robbery, and aggravated assault. The rape category includes rape by force and attempts or assaults to rape. However, statutory rape, i.e. where the victim is under the age of consent, are excluded. Robbery includes attempts to take from another person anything of value by force or threat of violence. Aggravated assault includes attack by one person on another causing severe bodily injury. Simple assaults are excluded. In Table 30 figures in parenthesis indicate rates per 100 000 population. Data for the categories rape and aggravated assault suggest that though the rates have decreased in 1982 and 1983, there has been a gradual increase thereafter. Robbery rates

decreased gradually since 1981 but the trend was reversed in 1986. The data of Table 30 are for offences. In 1986, the estimated number of arrests for the crimes of rape, robbery and aggravated assault were 37 140, 145 800, and 351 770 respectively.

Table 30. Violent Crimes Reported to the Police (USA).

	Crime		
	Rape	Robbery	Agg.Assault
Year			
1980	82 990 (37)	565,840 (251)	672 650 (299)
1981	82 500 (36)	592 910 (259)	663 900 (299)
1982	78 770 (34)	553 130 (239)	669 480 (289)
1983	78 920 (34)	506 570 (217)	653 290 (279)
1984	84 230 (36)	485 010 (205)	685 350 (290)
1985	87 340 (37)	497 870 (209)	723 250 (303)
1986	90 430 (38)	542 780 (225)	834 320 (346)

Property offences. Property offences include categories such as burglary, larceny theft and motor vehicle theft. Burglary is an unlawful entry or attempt forcible entry of a structure to commit a felony or a theft. Larceny theft is an unlawful taking away of property from another, or an attempt to do so. Examples include thefts of bicycles, shoplifting, pocket-picking. Figures for Table 31 indicate number of offences (in millions) reported to police while those in parenthesis indicate rates per 100 000 population. The rate for all three categories suggest that there has been no increase in the years 1980-87. However, all three categories also displayed a gradual decease up to the year 1983 and since then a steady increase. The data in Table 31 represent offences. In contrast, the estimated total arrests (i.e., offenders) in 1986 for the crime of burglary, larceny theft and motor vehicle theft were 450 600, 1 400 200, and 153 600 respectively.

Table 31. Property Offences Reported to the Police (USA)
Crime in Millions and (Rate/100 000 pop.)

	Burglary	Larceny-theft	Motor Vehicle theft
1980	3,8 (1 684)	7,1 (3 167)	1,1 (502)
1981	3,8 (1 650)	7,2 (3 140)	1,1 (475)
1982	3,4 (1 489)	7,1 (3 085)	1,1 (459)
1983	3,1 (1 338)	6,7 (2 869)	1,0 (431)
1984	3,0 (1 264)	6,6 (2 791)	1,0 (437)
1985	3,1 (1 287)	6,9 (2 901)	1,1 (462)
1986	3,2 (1 345)	7,3 (3 010)	1,2 (508)

Substance abuse. The UCR indicate that approximately 30 % of all arrests made in 1986 were alcohol or drug related. The breakdown of such arrests is as follows:

Drug abuse violations	666 132
Driving under the influence	1 390 597
Liquor law violations	469 317
Public drunkennes	750 887
All arrests (including the above)	9 944 411

II.2 Sanctions

Capital punishment. This punishment, reserved for the crime of murder, was suspended for a period of 10 years (1967-77). In 1972, opinion polls indicated that 52 % of the public favoured the death penalty while in the mid-1980s the figure was about 75 %. About forty states and the federal government have adopted the death penalty for murder and serious crimes. In 1986, seven states executed a total of eighteen prisoners by various methods which included hanging, electrocution, gas, and the injection of lethal drugs. Also, in 1986, 297 prisoners received the sentence of death and 32 states reported a total of 1 781 prisoners under sentence of death.

Table 32 indicates the total number of prisoners in federal and state prisons for the period 1980-86. Figures in parenthesis indicate rate per 100 000 population. These figures represent an overall increase of approximately 57 %, 54 %, and 82 % increases in rates of imprisonment for total, male and female imprisonment rates respectively over the seven year period.

Table 32. Prisoners in State and Federal Prisons.

Year	Total	Male	Female
1980	315 974 (138)	303 643 (274)	12 331 (11)
1981	353 167 (153)	338 940 (302)	14 227 (12)
1982	394 374 (170)	378 045 (336)	16 329 (14)
1983	419 820 (179)	402 391 (352)	17 429 (14)
1984	445 381 (188)	425 986 (369)	19 395 (16)
1985	481 616 (201)	460 210 (394)	21 406 (17)
1986	523 922 (216)	499 140 (423)	24 782 (20)

Jails are usually administered on a county or local level, are smaller generally than prisons, and offenders usually spend no longer that two years in them. The estimated average daily population in U.S. jails from 1983 to 1986 is given in Table 33 below. The increase over the last four years in the inmate jail population is approximately 17 %. Of these categories females experienced the highest increase of approximately 37 % while juveniles registered a decrease of about 20 %. Excluded from this survey are those locked up for less than 48 hours, and those detained in privately administered facilities.

Table 33. Estimated daily jail inmates (USA)

Average daily population	1983	1984	1985	1986
All inmates	227 541	230 641	265 010	265 517
Adults	225 781	228 944	263 543	264 113
Males	210 451	212 749	244 711	243 143
Females	15 330	16 195	18 832	20 970
Juveniles	1 760	1 697	1 467	1 404

In 1985 the total number of juveniles confined in 1 040 public juvenile facilities which include public juvenile, detention, correctional, shelter facilities, residential programmes and group homes was 49 322. This population experienced only 1 % growth since 1983.

The average sentences in months for offenders in the U.S. District Courts in 1986 were as follows: murder-first degree 302,7; murder-second degree 183,5; manslaughter 49,0; robbery 161,3; bank-robbery 164,6; assault 58,3; burglary in general 62,6; bank-burglary 141,0; and larceny/theft 46,0.

In 1986, the adult probationers under supervision at federal and state levels numbered 55 378 and 1 913 334 respectively while there were 17,064 and 283,139 adult parolees under supervision from federal and state sentences respectively.

II.3 Personnel and resources

The USA reports the following personnel engaged, and expenditure incurred, in the criminal justice system in 1985. The expenditure is represented as U.S. dollars.

There were 737 741 police officers. Of these, 568 793 were county and municipal police officers, 107,606 state police and the rest federal law enforcement officers. A total of 22 013 594 000 000 was spent on the police service. (This figure rose to 26 254 993 000 000 in 1986.) Of this, 16 billion was spent on local police departments. It should be noted that all police officers are engaged in crime prevention duties for on average, about one-third of their time.

There were 192 504 judicial officers, of whom 115 967 were employees in the county and municipal courts while the state and federal courts employed 61 082, and 15 455 people respectively. These employees cost local, state and federal governments approximately 2 841, 2 262, and 852 millions respectively.

There were 105 834 prosecution, defence and legal service employees. These workers cost 4 291 million.

There were 394 677 corrections employees at all levels of the government at the cost of 13 034 million in 1985. In addition, there were other justice activities which employed 6 409 people at the cost of 489 million dollars.

III. Selected Issues

Victimization surveys. Victimization surveys are administered to a large representative national sample to determine the extent of crime in the country. (See Part II of this Report, above). Though there are some problems with this type of survey the results indicate that UCR estimates of crime should be doubled for certain categories. Data on criminal victimization for the year 1980-86 suggest a decrease of approximately 15,2 %. Violent crime and household crime experienced decreases of 10 % and 18,3% respectively.

Motor vehicle theft is probably the only crime which has a high concordance rate among the UCR and victimization reports. Other categories suggest that UCR estimates are at least 50 % lower than the total victimization experienced.

Demographic Variations in Crime.

Sex distribution of arrestees. In 1986 four out of every five arrests made in the United States were of males. Males also accounted for 79 % of all Index Crime arrests (89 % and 76 % arrests for violent and property crime respectively).

Age distribution. In 1986 approximately two-thirds of all the arrests made were of people below the age of thirty. The arrested offenders for all three categories of crime are predominantly under twenty-four. The under eighteens appear to have committed more property crimes than other groups. However, for violent crimes, the age group most likely to be arrested were those aged eighteen to twenty-four.

Racial distribution. Crime in the United States is generally associated with nonwhite populations (nonwhite populations include Blacks, American Indians/Alaskan Natives and Asian or Pacific Islanders).

According to UCR data in 1986, 62 % of all arrestees of Index Crime were white. However, nonwhites represent less than 15 % of the general population. For example, for every white arrest per 100 000 white population, 6,15 nonwhites per 100 000 nonwhite population were arrested for murder and non-negligent manslaughter. Similarly, the corrected ratios of white to nonwhite arrestees were for rape (1:5), robbery (1:10), aggravated assault (1:4), burglary (1:3), larceny-theft (1:3), motor vehicle theft (1:3,5), driving under the influence of alcohol (1:0,7). Nonwhites were overrepresented in every category except for "driving under the influence of alcohol".

Private prisons. About 40 states contract private firms to provide prison services or programmes such as medical, college courses, construction, and community treatment centres. A few states are in the process od enacting laws authorizing privately operated correctional facilities. Private corporations already operate many juvenile facilities as well as facilities for the federal government, among them a half-way house, two Immigration and Naturalization Service facilities for detention of illegal aliens, and a maximum security jail in Florida. In 1986, a 300-bed minimum security private state prison was opened in Marion, Kentucky.

Sentencing guidelines. The type and length of sentence for similar offences differ by state. Sentencing guidelines are intended to provide judges with information on how judges in particular jurisdictions acted in similar situations. These provide a reference point to guide a judge in measuring the sentence he/she proposes to impose. Minnesota was one of the first states to implement sentencing guidelines.

Computerization in criminal justice. During the last few years computers have entered various stages of the criminal justice system in the United States.

National Crime Information Centre (NCIC). This is a national computer based information system operated by the Federal Bureau of Investigation (FBI). Since 1968, NCIC has assisted law enforcement agencies at various levels and private agencies in criminal justice as well as for noncriminal justice functions such as employment screening and licencing. The Centre collects, stores, retrieves, transmits and disse-

minates criminal justice information to various agencies in the U.S.A., Canada, Puerto Rico and the Virgin Islands.

Computers for law enforcement agencies. Various police agencies have begun to install Mobile Data Access Terminals in patrol cars to allow police officers immediate access to crime related information from their headquarters which are usually linked to the NCIC. In addition, for larger cities such as New York City, arrest processing is very complex process. For example, in 1986 for a period of eleven months, New York City, in its five boroughs, 268 437 arrests were made. Defendants must be processed through a complex network of criminal justice agencies which have overlapping city, county, and state jurisdictions. Computers assist in minimizing duplication of information and for better coordination of police duties. Courts have also introduced computers for improved coordination and to reduce cumbersome paperwork in its functions such as case processing (docketing, indexing etc.), calendar management, and records management. In addition, computers provide sentencing information for judges. The National Centre for State Courts located in Colonial Williamsburg, Virginia sponsors various projects relating to computer applications in courts.

Electronic jails. In 1985, Kenton County's Fiscal Court, Kentucky, first introduced a home incarceration programme in the United States. Soon other states such as Oregon, Michigan, and New York have either followed Kentucky or are seriously considering introducing such programmes. Home incarceration involves attaching an electronic monitoring device to the detainee's leg which would transmit a signal verifying the presence or absence of the wearer within a determined radius. In addition, such electronic surveillance of convicted offenders is either introduced or being considered for use in some states for its probationers.

IV. Crime Prevention Strategies

A number of programmes are in operation, of which the following is a small selection:

1) A 4 year project on the National Council of Juvenile and Family Court judges to establish State Planning Task Forces to help abused and neglected children obtain permanent families through adoption.

2) There are many programmes to provide continuous assistance to indigent families, such as Aid to Families with Dependent Children (AFDC), Effective Parenting Programmes, and special programmes for parents of inner city families, especially Hispanic families in need.

3) Approximately 69 public and 316 private shelters for juveniles in need of temporary care such as runaways, homeless street youth and neglected children.

4) There have been many job training and development programmes on federal, state and local levels available both for institutional and non-institutional offenders and those at risk. Emphasis has been placed on innovative partnerships between public and private organizations.

5) The National Institute of Justice has conducted research into the environmental/physical design of communities and buildings and their relationship to crime. Model building codes have been developed to help residential and commercial areas to resist and prevent burglary. Public housing projects have been redesigned in an attempt to reduce opportunities for crime.

6) Media campaigns have attempted to sensitize the public to crime prevention. These programmes concentrate on TV daily or weekly crime news, with a "crime of the week" featured. Viewers are asked for assistance in "solving" the crime. These programs have been popular, and some crimes have been solved. The overall effect of these programmes is, however, unknown. A great deal of media attention

during this period has also been given to campaigns against drunk driving, and more recently to drug abuse.

7) Community Policing and Neighbourhood Watch programmes have increased during the period. Local patrols, escorts of senior citizens, personal fingerprinting of children, and placing ID marks on personal property, have been subject to many campaigns nation wide.

YUGOSLAVIA

I. Background

Yugoslavia was founded in 1918. A new law on penal procedure applying to the entire territory came into effect in 1930. After the Second World War a law issued in 1946 cancelled the validity of former legislation with the exception of those provisions that did not conflict with the Constitution. In 1948 the general part of a new Penal Code prepared under the influence of Soviet penal law was adopted. A need for reform was soon felt, and work began in 1948 on a new Penal Code, which was issued in 1951. It represents a partial return to the legislation of 1930. A series of gradual changes followed up to 1960. Among these the most important remains the amendment of 1959. This amendment was brought about under the influence of the movement for social defence. It brought more up-to-date provisions on the treatment of minors, a reduction of maximum prison terms and the abolition of life imprisonment. In 1974 a new Constitution was adopted. The changes in the organization of legislation, in state administration and in the self-management system due to it were of such a nature that the Code of Penal Procedure had to be brought into line. Partial decentralization of penal law was introduced, and thus in 1977 six republican and two regional Penal Statutes came into operation in addition to Federal Penal Statute, especially its general part. The basic tenets of the Code have remained as promulgated in the amendment of 1967.

Besides criminal offences provided for by penal law, there also exist two other types of infraction, economic offences and petty offences. The principle "non bis in idem" is acknowledged, but this means that minor offences can be dealt with under the above mentioned legislation.

After 1945 the police had relatively wide freedom of choice of action. This was gradually modified, especially in the penal procedure reform of 1967. Today, the primary task of the police is to detect the criminal act, discover the offender and secure the evidence. Their interrogation

and minutes may be used in court proceedings. Detention ordered by the police should not exceed three days.

The role of the public prosecutor was dominant up to 1967. In addition to being responsible for bringing charges against the offender, the prosecutor also ordered and conducted inquiries and other investigations. After 1967 most of these tasks were transferred to the investigating judge (except in the case of summary procedure). Although the prosecutor must act in accordance with the legality principle, he has a limited discretion to discontinue the prosecution if the criminal act is found to be of insignificant social danger. In such cases the injured party can continue the prosecution. In addition, some criminal offences, especially less grievous ones, can be prosecuted by way of private charge.

The institution of the investigating judge, who acts within the framework of the court, was enacted in 1930. After 1945 it was abolished and the public prosecutor took over and conducted investigations up to 1945. Thereafter the investigating judge began to assert himself again and in 1967 his function as investigator was established.

The defence counsel has the right to take part in all investigative activities. However, this right does not extend to the so-called pretrial proceedings carried out by the police. The period between detention and the pressing of charge may not exceed six months. After the filing of charges as well as during appellate proceedings, the senate can prolong detention. In such cases, the detention may last until a legally valid judgment comes into effect.

At main trials the courts sit in panels consisting of judges and lay assessors. The presiding professional judge has a dominant role and there is no cross examination. At no phase of the criminal procedure is the defendant required to inculpate himself. The minimum age of criminal responsibility is 14. Full adult responsibility comes at the age of 18.

II. Statistics

During the time period 1980-86, criminal statistics in general show an increase. In 1980, there were 220 866 persons reported to the police while in 1986 there were 266 533 (+ 20 %). The total number of those sentenced was in 1980 98 865 and in 1986 110 091 (+ 11 %). The percentage of female offenders has remained steady. The number of convicted people in 1986 per 100 000 (adult criminally responsible population) was 729 (using the population numbers of the 1981 census).

II.1. Selected offences

Intentional homicide. A small decrease is noted with respect to this offence when data are compared with those from the Second United Nations Survey. The number of those officially processed in respect to this offence are set out below:

People	1980		1986	
	female	male	female	male
reported to the police	252	1098	253	1027
prosecuted	184	721	165	706
convicted	204	575	133	581

In 1986, 56 % of all people reported to the police were sentenced as compared with 54 % in 1980. The offence is well known to be predominantly a male one.

Assault. If court data (offenders sentenced) are taken into account a slight decrease can be noted between 1980 and 1986 in the incidence of this offence.

People	1980		1986	
	female	male	female	male
reported to the police	3 044	13 020	2 587	12 999
prosecuted	4 720	20 661	3 667	17 689
convicted	2 569	11 058	2 123	10 377

The unusual distribution of data referring to people reported to the police, compared with data on those prosecuted (which are higher) occurs because prosecution includes the offences of slight bodily injury where action is initiated by the victim. If those sentenced are considered, a small decrease in 1986 can be noted in comparison with 1980.

Robbery. A slight increase can be noticed in the incidence of this offence. This may be a consequence of somewhat increased efficiency of the pretrial procedure which led to a greater proportion of those reported to the police who were sentenced.

People	1980		1986	
	female	male	female	male
reported to the police	162	1055	159	1028
prosecuted	104	432	117	488
sentenced	146	325	132	371

Theft. The data include theft and aggravated theft. This offence represent the most numerous offence. Its incidence has been increasing since 1980.

People	1980		1986	
	female	male	female	male
reported to the police	11201	87569	15362	120067
prosecuted	8674	18231	10538	27284
sentenced	6754	14101	8529	22373

The data in 1986 (if compared with 1980) show an increase of 35 % if police data are considered and 48 % if sentenced people are taken into consideration. The proportion of those sentenced as compared with those reported to the police is very low, 21 % in 1980 and 23 % in 1986.

II. Sanctions

The distribution of sanctions in 1986 did not differ significantly from that in 1980. Both distributions are set out below:

Sanctions	1980		1986	
	N	%	N	%
imprisonment	21 211	21	24 513	22
fine	32 060	32	40 775	37
probation	43 250	44	43 110	39
other	2 344	3	1 693	2
total	98 865	100	110 091	100

It will be noted that the use of imprisonment has slightly increased but the greatest increase concerns the use of the fine. Probation was the sanction the use of which has decreased in 1986 when compared with 1980. Among other sanctions there are judicial admonitions (2 177 and 1 527 in the two years respectively). In each of the years observed three death penalties were imposed. This does not necessarily mean that the same number were carried out.

The prison population of those sentenced is reported as of 31 December 1986 to be 16 621. The Second United Nations Survey showed that population in 1980 as 15 574 adults and 92 juveniles. The increase in 1986 is 6 %. There are no data available on pretrial detention.

III. Personnel and resources

The Yugoslav report gives no data on the resources of the criminal justice system as a whole nor of its parts. It states that data is not available because resources are allocated by a large number of authorities.

As to personnel, the report provides data for the number of professional and lay magistrates (and judges). in 1986, there were 5 605 professional magistrates (and judges) of whom about 30 % dealt with criminal cases. There were also 12 383 lay magistrates (judges) of whom around 40 % dealt with criminal cases.

IV. Selected issues

There have been no new initiatives aimed at the prevention of crime during the period 1980 - 1986. It is believed, however, that the general situation in Yugoslavia marked by serious economic and political problems impacts upon crime in general and may add to the increase of some kinds of offences (e.g. property offences, political offences).

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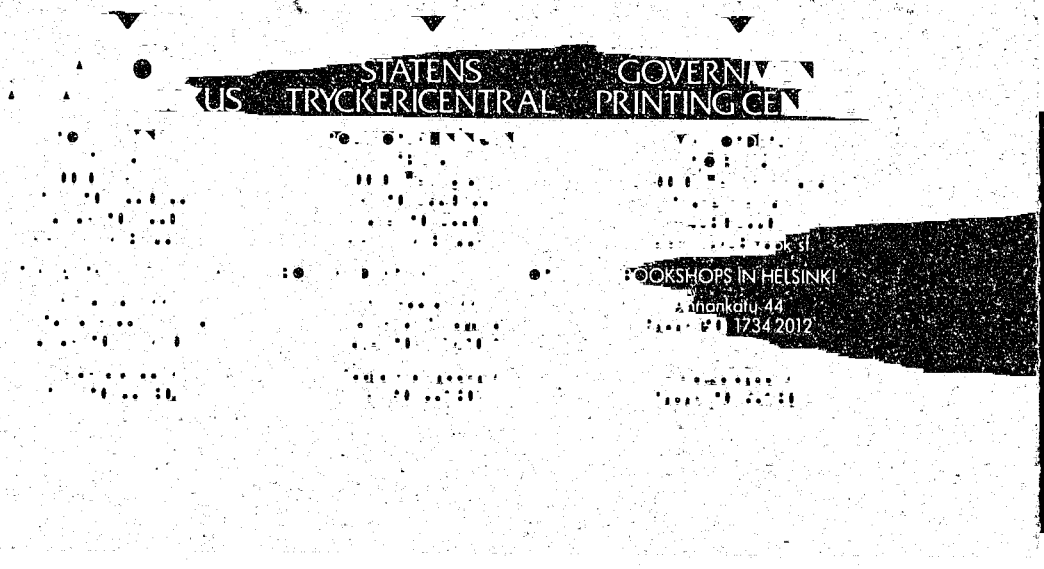

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