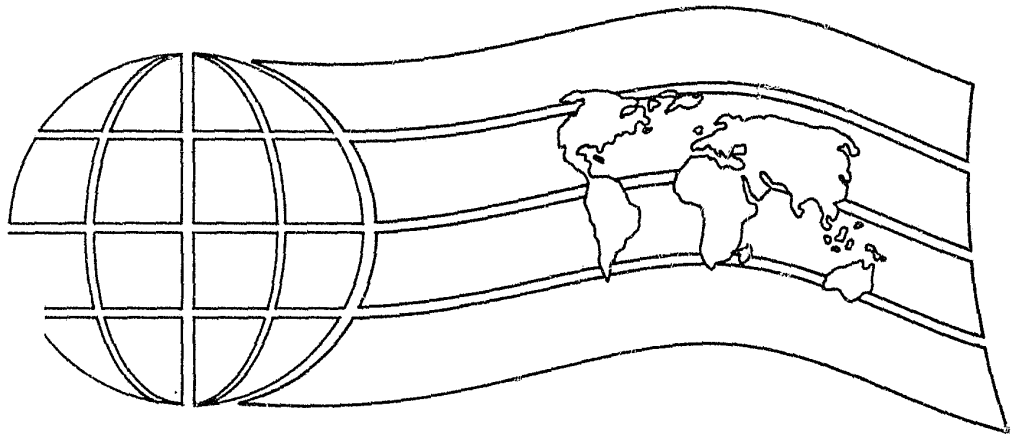
International Summaries

A Collection of Selected Translations in Law Enforcement and Criminal Justice

Volume 1



National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
U. S. Department of Justice

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National Criminal Justice Reference Service

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National Institute of Law Enforcement and Criminal Justice
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Law Enforcement and Criminal Justice
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INTRODUCTION

The National Criminal Justice Reference Service (NCJRS) is publishing this volume, the first in a series of *International Summaries*, as part of a special effort to make foreign-language criminal justice literature available to more researchers and practitioners. This initial volume in the series presents summaries of documents originally published in Brazil, Canada, France, Italy, Spain, Switzerland, Venezuela, and West Germany. The breadth of topics reflects current interests of criminal justice researchers and practitioners. Future volumes may focus on particular criminal justice topics.

No topic is of more concern internationally to law enforcement professionals than terrorism. The first five selections in this volume define terrorism and describe terroristic and political crimes. "Terrorism Against the Constitutional State" is an anthology of seven papers about theories of terrorist crimes and the experiences of the West German criminal justice system as it attempts to control terroristic acts. Other translations describe types of terrorism, terrorism from a historical perspective, the need for international efforts to combat terrorism, and laws directed against terrorism. "Political Crime," by Carlos García Valdés, includes detailed descriptions of the Spanish Penal Code and other laws and tribunals concerned with terroristic political crimes. Countermeasures for the growing problem of hostage taking are suggested in a pragmatic review of this problem by Léon Borer.

Another almost universal concern is apparent from international criminal justice literature--crime prevention strategies. The next five translations describe successful crime prevention strategies in France and West Germany. It is interesting to note the use of special officers trained to detect signs of juvenile delinquency in three articles: "Community Relations Officer--The Psychology of His Activities," "Juvenile Protection Unit of the Paris Police Headquarters," and "The Police Officer and the Juvenile Problem."

The first of a series of six articles about corrections approaches is closely related to the use of special juvenile officers. "Tasks and Practices of Court Presentence Investigators" focuses on the role of the presentence investigator in diverting some offenders from criminal proceedings as well as in determining the most suitable sentence for those who remain in the criminal justice system. The noticeable trend toward community-based corrections in the United States is also apparent in reports of correctional practices that involve the community in Switzerland, Italy, and other European States.

The next three translations provide insight into the organization and history of police operations in Japan, France, and West Germany.

The remaining six selections illustrate the diverse concerns of criminal justice and law enforcement officials and theorists. The Dietrich article examines the sociology of the police profession and of a society that engenders what we consider criminal behavior. López-Rey presents his views on reforming the entire criminal justice system of Venezuela and suggests that other developing countries may also find his proposals pertinent. The final two translations address the mechanics of reporting and computerizing crime statistics.

We hope that this first survey of the international criminal justice literature will be of interest to English-speaking researchers and practitioners. For those who would like to refer to the documents in their original language, publication information is provided at the end of each summary. All of the documents represented in this volume may be borrowed from NCJRS on interlibrary loan. The identifying NCJ number after the foreign-language title should be included when requesting document loans. Requests for document loans should be addressed to:

NCJRS Document Loan Program
Box 6000
Rockville, MD 20850

ACKNOWLEDGMENT

Planning and preparing a publication of this type involves the efforts of many people. At its inception many months ago, Kevin Appel assumed responsibility for organizing the entire effort. The task of selecting appropriate documents from the NCJRS data base was accomplished through the efforts of Deborah Sauvé, Dorothy Orme, and John Rickard. John Ferry and Mark Shanley of the NCJRS Reference Staff participated in the final screening of documents. Deborah Sauvé coordinated the preparation of the translations in addition to translating a number of the documents herself. She also acted as a resource to the staff members who were involved as editors: Judith Grollman, Maureen Leshendok, and John Rickard. Judith Grollman assumed responsibility for final editing and production. Cover design is by Susan Carpenter.

--Marjorie Kravitz
Supervising Editor

Terrorism Against the Constitutional State

Terrorismus contra Rechtstaat* (NCJ 39497)

Rudolf Wassermann, Ed.

Editor's Note: This is an anthology consisting of an introduction and seven articles on the subject of terrorism. The introduction and six articles are summarized here. A more detailed presentation of the seventh article "The Urban Guerrilla in the Federal Republic of Germany," by Hans Joseph Horchem, may be found on page 15.

Introduction

by Frank Benseler

Camus, Marcuse, and Ionesco, as well as Foucault, describe the social system of the modern world as one which covers up inhumane absurdities (the most extreme being concentration camps) with technological system-oriented rationality; human values are replaced by the ethics of production. Under these conditions, countless movements, from Women's Liberation to Maoism, arise from a common source: liberal antiterrorism, opposition to terrorism of the state.

The roots of terrorism are traced through the French Revolution of 1789 and subsequent revolutions of 1830, 1848, 1905, and 1917. A pattern of counterrevolution and counterforce emerges which has determined the character of the modern state. Legitimized by a battle of the common people, but legalized in the in-

*Translated from the German by Technassociates, Inc.

terest of the historically dominant class, the modern middle-class state is an antagonistically divided economic society whose power is justified by conceptions of natural law. When corrupted, such legal norms made the Third Reich possible.

The new West German State formed after World War II was a compromise between a constitutional state and a social state modeled on the newly formed socialistic states. Subsequent emergency laws have shaken this compromise to the point where measures protecting economic interests of the few threaten to endanger the basic human rights of all.

Anarchist activities of the late 19th century (e.g., the Commune of Paris, the Bakunists, the London International Anarchist Congress) gave rise to "propaganda by action" which still thrives. Anarchist groups formed according to the same pattern: party disagreement, an exclusion process of certain members, persecution by the state, social isolation, taking gambles, and sectarianism. Such groups found semireligious legitimation of force in the common people.

Historical parallels only serve the purpose of illustrating mechanisms still at work today. Criminalized by the state and rejected by the socialists, rebellious groups cannot be integrated. Escalation of violent measures by the state causes public hysteria and solidarity of the group without solving the problem; the number of supporters of the Baader-Meinhof group appeared larger than it actually was because people who did not consider the group outright criminals were forced into the role of supporters.

In modern consumer states, individual concerns are obfuscated by official attempts to normalize and thus to stabilize the system. When public interest is lost for the sake of economic power, longing for meaningful social action is manifested in irrational activism (e.g., Jesus people or new satanists) leading eventually to propaganda by action.

Instead of unenlightened antisocialism based on the premise that all obedience is good and all protest bad, true democracy of economic determination and governance from below (as in Scandinavia) would have provided an opportunity for resolution in Germany.

Political Extremism in Light of Sociological Research on Radicalism

by Klaus von Beyme

Radicalism is regarded as synonymous with terrorism. Attitudes toward categories of unconventional behavior and toward external signs of such behavior have been determined by American researchers, but usually without considering, in cross-national studies, differences in political cultures or changes in norms over time.

Theodor Adorno's The Authoritarian Character ("studies of prejudice" series) broke new ground in psychological research on radicalism by interpreting authoritarian character as a sadomasochistic resolution of the Oedipus complex and by developing the fascism scale. A number of studies with data from questionnaires followed in this Freudian-environmentalist vein. Theories of

relative depression interpret divergent behavior as the result of excessive prosperity. Both directions are ahistorical, neglecting factors of individual choice.

In general, the psychoanalytic study deals with drives, perception, and aggression of individuals, as well as with integration into society. But questionnaires using the "enlightened liberal" as a norm cannot measure pathological features of normal behavior or reveal uneasy detachment underlying apparent contentedness.

While political scientists have concentrated on rebel leadership or correlations between modernization processes and unconventional political behavior, sociologists have examined behavioral causes; e.g., generational conflicts and career possibilities. Most ignore the collective nature of political protest and the concept of conflict as the motive force behind development.

Present antiradical policies in Germany are based on assumptions in need of revision: (1) glorification of the state only causes pressure on individuals to conform in performance of their duties to the state; (2) political action is not limited to one field (political science), and throttling certain fields is senseless, as it only induces "revolution of the superfluous"; (3) total engagement of students does not necessarily lead to permanent extreme political activity; (4) the duration of protest waves cannot be determined, and protests are best met with reform, not repression; (5) political norms are no longer accurate; (6) no causal relationship exists between unconventional political be-

havior and use of illegitimate force, except when repression is attempted; (7) verbal behavior cannot be identified with real behavior; and (8) criminal behavior from lack of integration is not to be confused with politically unconventional behavior aiming for change.

Tolerance of idealistic youth, although not of hard-core terrorists, is required, especially in matters of professional advancement. Attitudes supporting repression of nonextremists are very dangerous to the German democratic system.

Protecting or Undermining the Constitutional State

by Rudolf Wassermann

Terrorism is an international phenomenon affecting everyone, which can therefore seriously disrupt internal security. The question is whether new legal instruments to deal with the problem would take the form of a conservative backlash, an eventuality which German liberals are seeking to avoid.

Within the system of the Federal Republic of Germany, only criminal law can deal with terrorists; constitutional changes have been prompted by terrorists' acts. In reaction to the murder of the President of the Supreme Court, von Drenkmann, in November 1974, a supplementary law made it possible to exclude conspiratorial lawyers who threaten the security of the Federal Republic and to conduct criminal proceedings in the absence of the defendant. After the kidnaping of Peter Lorenz in February of 1975, a spate of laws made prosecuting criminal associations easier.

A number of the changes in criminal procedure are problematic: (1) the modification of the Criminal Code (paragraph 129a) which makes "criminal associations" illegal and which is directed against terrorist murders, kidnapings, etc. is not really appropriate to the law in which it is included; (2) new reform plans would almost certainly be reactionary; (3) the possibility of removing an attorney just for suspicion of conspiracy with his client might be justifiable, but surveillance of communication between defendants and attorneys interferes with the lawyer-client relationship and is politically unwise; (4) tightening existing laws on pretrial custody is unnecessary because the judge can already detain defendants who might flee; (5) plea bargaining is morally questionable and should only be used when all else fails in cases endangering the whole system; (6) reinstating pre-1970 laws on disturbing public peace would remove the basic democratic right to demonstrate; (7) proposed laws against advocacy of force have already been dropped because of difficulties in defining what the laws would mean; and (8) although police need special regulations on the use of guns, especially in kidnapings, such laws would escalate terror.

As terrorism is a problem of society in general, the public must learn not to overreact. Conflict must be accepted as a part of human society which can contribute to gradual development. Young people can only hope to make the system more responsive by curbing their discontent with the existing republic and working actively for change without violence.

The Offensive for Combating Anarchist Terrorism of the CDU/CSU

by Wilhelm Mensing

According to the CDU/CSU (Christian Democratic Union/Christian Socialist Union) document on internal security, terrorism's threats have not been combated because social liberals have not recognized the danger. Strategy against terror requires improvement of laws and cooperation among all security institutions as well as elimination of the atmosphere of tolerance toward terrorist offenders; the constitutional state must be supported by individual citizens, schools, universities, and the media.

Existing law requires reform to fulfill its protective function in the state, thus the initiative of the CDU/CSU. In criminal law, the CDU/CSU seeks to revise the laws on breach of public peace (paragraph 125, Criminal Code), to expand the concept of threat of crime (paragraph 126), to prohibit the distribution of handbooks advocating terror, and to increase penalties for participation in criminal activities. In criminal procedural law, surveillance of written and oral communications of terrorists and detention of suspected terrorists are to be legalized. In security law, identification and registration requirements are to be made more stringent. Optimal security cooperation can be achieved through decentralized cooperation of Federal and State police powers, organization, and equipment with coordination by the Federal Criminal Police Bureau.

Certain critics of the measures argue that social enlightenment will alleviate all social problems, eliminate terrorism, and

achieve social justice. They fail to consider that liberal tolerance of extreme positions must not interfere with the authority of the state and undermine constitutional order.

A second group of opponents differentiates between criminal terrorists and political radicals. But the numerous sympathizers surrounding the core group and the criminal nature of the acts committed make such distinctions impossible. Sympathy for terrorists is greater than for political opponents in established parties, a result in part of media solidarity regarding negative criticism of State institutions.

A third group calls the offensive a move toward a rightist state with powerful police and prosecutors. But law and order, a pejorative to liberals, is to protect ordinary citizens from crime, as well as the rights of the accused. Many liberals call for central police control without recognizing that federalism in police matters guarantees the constitutional state.

Strong arguments exist in favor of the measures. Only the right to peaceful demonstration is guaranteed, and if a choice must be made between protection of the right to demonstrate and protection of citizens' lives and property, the balance tips in favor of the latter. As experience has shown, participation in potentially violent demonstrations increases the danger of the situation and should be legally regulated. Detention of suspected terrorists has been branded as regressive rightist politics, but again, the rights of the citizenry to protection are foremost. Surveillance of defense attorneys by a judge or prosecutor has

been called excessive control, but the fact remains that when the Government ignored terrorist-counsel conspiracy in 1972, the situation worsened. Measures should also be taken to disbar lawyers who support the criminal activities of their clients. Criticism of the proposal that media reports on terrorists should not be unbiased fails to consider that the constitution requires the media to defend democratic freedoms; the right to criticize the state itself would clearly remain.

Lawyers and Terrorists: Prevention of Defense Through Antiterrorist Laws

by Josef Augstein

Earlier criminal procedure was characterized by an authoritarian judge and a subordinate defender for a virtually helpless defendant. The situation began to improve in the 1950's, and reform continued until the early 1970's. Rejecting the court system, the Baader-Meinhof defendants made a basic weakness of the system evident: by refusing to cooperate in any way, they brought proceedings against them to a virtual standstill.

New regulations have been hastily drawn up, which are problematic in light of a constitutional state's responsibility to provide not only for court procedures against criminals, but also for adequate defense conducted in total freedom. The new laws exclude a defense lawyer who is even merely suspected of conspiracy with his client. The danger exists that authoritarian judges might use their positions to exclude defense attorneys with whom they feel uncomfortable. On the other hand, the defense attorney

of the defendant's choice can sabotage the proceedings by withdrawing; defendants then refuse to cooperate with a court-appointed lawyer, precipitating a crisis.

Other laws prohibiting the same lawyer from defending several clients in the same proceedings and permitting continuation of the trial in the defendant's absence are unclear and difficult to apply. It is now thinkable that "ghost" proceedings could be conducted against absent defendants with court-appointed defense. According to the decision of the Stuttgart Criminal Senate, which sought to combat the stall tactics and hunger strikes of the Baader-Meinhof defendants, such ghost proceedings are legal; this is apparently the only alternative for ever ending the trial.

Surveillance of defense lawyers and their incarcerated clients, however, makes preparation of the defense difficult and is unconstitutional because it interferes with the right to a fair trial. Such surveillance laws would reverse the liberal direction which reform had been taking and would spell a return to authoritarian courts.

Tight Security: Proceedings Against Extremists

by Peter Doebel

The extremist trials discussed in earlier sections are described dramatically. The proceedings, beginning with those against Karl-Heinz Ruhland in early 1972 in Duesseldorf and reaching a climax in the seemingly endless Stammheim trial of Andreas Baader, Ulrike Meinhof, Gudrun Ensslin, and Jan-Carl Raspe which started

in May 1975, after the defendants had been in custody for 3 years, follow similar patterns. The uncooperative defendants seek to demonstrate how they are repressed by the system, and almost all use the trial as a forum for their beliefs, at times pressing their legal rights to the limit and throwing insults to slow down the proceedings. Defense lawyers frequently argue from the same standpoint as their clients with rude personal attacks on judges to destroy the illusion that justice is served. Defendants refuse the assistance of court-appointed lawyers when their own lawyers are removed. Judges must remain unbiased despite insults, but the personality of the individual judge is always forced into play by the trying circumstances. Security measures such as barbed wire and police cordons, searches, and even moving to a new building exceed reasonable bounds, creating the inevitable impression of a biased and insecure state.

Beyond the Constitutional State?

by Theo Rasehorn

Normal criminal proceedings involve the playing of roles; e.g., the defender as an organ of justice and the accused as a rueful sinner in a cathartic, ritualistic mystery play. The political Baader-Meinhof trial diverges from this pattern. Historically, a major change came about in criminal procedure with an improvement in defendants' rights and an elevation of the defender to the status of representative of his client's interests. In the political trials, the court-appointed lawyer represents

the old system and the client-appointed lawyer the new.

In previous political trials, the defendants recognized some legitimation of the court and tried to justify their actions, but the Red Army Faction (RAF) defendants reject justification in favor of agitation. By refusing the assistance of court-appointed lawyers, they seek to expose an ambivalent court system and to denounce the state.

For most western democracies, the constitutional state is an organizational form concerned with human rights, while the function for formal constitutional law in the Federal Republic is to maintain order in a state which demands special loyalty from its servants. Terrorists are a threat to be destroyed.

Changes in laws affecting legal defense for specific cases limit the rights of defendants in general. Even worse, the excessive security precautions and the in-prison trial at Stammheim make the trial itself look like punishment. For some, the only apparent solution would be to banish those who refuse to recognize the laws of the state to a camp for like-thinking individuals.

This solution is unfeasible, not only because of spectres from the Nazi past, but because the exaggerated dangers are not borne out by statistics on forceful terrorist crimes and therefore do not warrant further protection. It would be more reasonable to move the RAF trial to a normal courtroom, with security slightly stricter than usual, and to release court-appointed lawyers, as the defendants have the right to refuse defense. Even if the trial took years, such measures would dull the edge of agitation

and reduce theatrics, an alternative preferable to the use of legal counterforce.

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The Urban Guerrilla in the Federal Republic of Germany—Origin and Prospects

Stadt-Guerilla in Deutschland--Wurzeln und Chancen* (NCJ 20550)

By Hans Joseph Horchem

Although the development of science and technology in the 19th and 20th centuries has brought many material comforts, it has also led to future shock in politics and economics. The suspicion that society will no longer be capable of absorbing its traditional ethics has frequently been manifested in the form of student unrest. For the last 150 years in Europe, middle-class student intellectuals have often sublimated their sociopolitical tensions by championing the visible needs of the "repressed" classes; for example, the Narodniki movement in 19th century Russia. Such student movements died a natural death, however, due to lack of support from the very classes they were ostensibly championing. Another factor contributing to the demise of these movements was the students' conviction that any means could be used in the attainment of their goals.

* Translated from the German by Technassociates, Inc.

Student unrest in the United States was amply reflected in the support of the 1960 civil rights and protest movements directed against the "establishment," particularly in regard to the Vietnam War. That protest movement, embodied in organizations such as the Students for a Democratic Society, formed the standard for present-day youth protest in the Western world. The Vietnam protest movement largely died with the deescalation of the war and also in part with the growing awareness that involvement in Marxism/Leninism was a dead end, but both the civil rights movement and the student protest movement left a legacy of terrorist groups: the Black Panthers, the Weather Underground, and the Symbionese Liberation Army.

Contemporary student protest in the Federal Republic of Germany was given impetus by the American protests at Berkeley in 1964 and by the appearance of a German "new left" which lagged behind the United States by only 2 or 3 years. The reservoirs for the spread of activism were students in the political, sociological, and psychological disciplines of the German universities, especially those of Berlin and Frankfurt. Their antiauthority demonstrations came in spurts and reflected a wide spectrum of educational, political, social, and economic situations.

The protest against the Notstandsgesetze (state-of-emergency laws) provided a focus for this movement, a protest which included the Easter Action of 1968. Around this time, students held discussions on the nature of violence, and a distinction was made between violence perpetrated against objects and against persons. The former was justified as a means in the struggle of minorities against

repression and against the institutions responsible for repression; the latter was not precluded by the dialectic.

In the fall of 1968, the campaign against the Notstandsgesetze failed, breaking the momentum of the movement and causing it to disintegrate into cellular units. These cells then paused to steep themselves in Marxist theory and analyze their revolutionary process in West Germany. The next 3 years constituted the incubation/transition phase of their politically motivated violence, especially in Berlin, and in 1971 the Red Army Faction (RAF) emerged, girded with the concept of armed confrontation.

The RAF was led by principals of the infamous Baader-Meinhof gang, who surfaced long enough to publish their basic ideology and goals and then retreated underground to solidify their nascent organization as well as to solve their logistic problems. They methodically acquired money (by robbing banks), shelter, vehicles, garages, false identification papers, communications apparatus, weapons, and explosives. Much of this was accomplished with the aid of sympathizers.

In 1972, they launched their offensive even though some key members had already been apprehended. They bombed the American Headquarters in Frankfurt and Heidelberg, police stations, and the Springer publishing firm. These attacks were also calculated to rally support from other groups in the "new left." The onslaught soon broadened to include acts of terror against such individuals as judges and state prosecutors. Many lives were lost in these activities, including those of innocent bystanders. By the summer

of 1972, however, the intensified effort of the police resulted in the incarceration of most of the remaining activists.

While in prison, the core members of the RAF continued to impede in any way possible the judiciary process. They tried to evoke sympathy and to keep the movement growing in the outside world. Most of these efforts failed. In February 1974, the few members not in prison were apprehended; the following November, Holger Meins, a key figure, died as a result of the third hunger strike the prisoners had waged.

The question of what motivated the terrorists can never be completely answered. Most of the RAF were students of middle-class backgrounds, but other than that the search for unifying factors, psychological or otherwise, remains problematic. One curious note is that 12 of the 22 members of the core group were women--women who were completely accepted as equals, who participated fully in terrorist activities, and who, in some cases, were among the most dominant members.

The idea of armed struggle in Western Europe was profoundly influenced by the revolutionary organization of the Tupamaros in South America as well as by other Third World terrorist groups. The RAF adopted the Tupamaros' tactics as expressed in the handbook of the Brazilian urban guerrilla Carlos Marighela. They also promulgated their own revolutionary doctrine embodied in such works as Ulrike Meinhof's "The Concept of the Urban Guerrilla" and Horst Mahler's "The RAF Collective--Concerning the Armed Struggle in Western Europe."

The writings and activities of the RAF, in addition to clarifying and synthesizing political goals which provided impetus and justification for terrorist activities within their own number, also spawned a number of independent groups which identified with their ideals and adopted the practices of the parent group. Many of these groups also plotted the release of imprisoned RAF members. One such notable attempt was the April 1975 takeover of the German Embassy in Sweden by six terrorists who not only had been influenced by the RAF, but who also showed unmistakable signs of Japanese and Palestinian terrorist influence.

It is hoped that the prospects for future terrorist activity in Germany are dim. Much initial public sympathy for the terrorist groups was lost when it became obvious that the death of innocent bystanders was of no concern to the RAF and when it was realized that its activities were not analogous to those of Robin Hood. Antagonism on the part of the populace toward armed police action, which the RAF had anticipated, never materialized; there was no "counter-terror" elicited by West German security forces, which could have effected the unification of a "new left" cadre. They ignored Che Guevara's warning that terrorist strategies render contact with the masses impossible. The RAF failed to realize that Third World tactics cannot be successfully applied in a democratic country.

Strategies employed by the imprisoned RAF members to win sympathy and to make the judiciary system appear unjust were also unsuccessful. They were paradoxically defeated by their own actions

and those of their defense counsel; these included hunger strikes, refusal to discuss their incarceration, and the creation of the "International Committee for the Defense of Imprisoned Members of the RAF."

Attempts by the RAF and other German terrorist groups at close cooperation with other international terrorist groups have been mostly unsuccessful. In Western Europe, this is due to the parochial interests of the various groups; i.e., their interests are independence, autonomy, or rights relating to regional or national representation, not "world revolution." Terrorism practiced by ethnic and religious minorities will not disappear, but it provides no basis for a common, widespread, international terrorist ideology.

The possibilities, however, for cooperation between German terrorists and Maoist terror organizations in Spain and Italy are not to be discounted in spite of their local involvement and language difficulties, nor is a political constellation of Palestinian and German terrorists inconceivable.

As it stands today, the chances for the revolutionary movement of the RAF itself are extremely limited. Its successor groups are very small, without central direction, and are in no position to solicit outside help. The public's memory of the recent terrorism will render it invulnerable at least for a while to new propagandists. The police have had ample opportunity to refine their techniques and are not in disfavor with the citizenry.

This does not mean that fanaticism will not express itself in the future. Mahler himself has said that activists do not necessarily have success in mind when taking up a struggle. The decisive factor in the terrorist issue is the reaction of the state and society. Terrorism is a weapon of the weak, and its success is dependent on accurate psychological speculation. Its use must evoke an anticipated reaction, such as police brutality or repression, or it has no chance to achieve its overall objectives. State institutions must be prepared to effectively deal with terrorist blackmail without succumbing to the temptation of instituting measures that abrogate civil freedoms on a "law and order" rationale.

From Terrorismus contra Rechtstaat, Rudolf Wassermann, Ed. 1976. p. 72-123. Hermann Luchterhand Verlag, Zweigniederlassung Darmstadt, 6100 Darmstadt, Donnersbergring 18A, West Germany.

Le droit et la répression du terrorisme* (NCJ 45356)

By Pierre-Henri Bolle

There are three forms of individual terrorism, if one considers only the motivation of the perpetrator:

- Common law terrorism, which is the work of criminals in the classic sense of the term, perpetrated for profit or to violate any individual legal right protected by the penal code; e.g., life, bodily integrity, liberty, etc. This type of terrorism falls under the jurisdiction of classical criminality; e.g., holdups, kidnaping, banditry, etc.
- Pathological terrorism, or the manifestation of a troubled mental state: Herostratus who burned the temple of Diana at Ephesus; Sirhan Sirhan who murdered Robert Kennedy; the mentally ill Swiss who, in the middle of the century, was only fulfilled by setting fire to public

* Translated from the French by Deborah Sauvé of Aspen Systems Corporation, 1978.

buildings. This terrorism is amenable to the classic psychiatry of psychopaths and paranoiacs.

- Political terrorism, i.e., of political motivation: this type interests us the most because it obliges the law to create new institutions and completely new theories to combat it.

The political terrorist is a strange individual, difficult to understand because he obeys an uncommon motivation and logic. Like all sectarians, he lives on ideas which he develops and devises independent of all the referents men living in society usually have at their disposal; in this case, without reference to such realities and imperatives of our society as civic sense, social morality, and respect for others. He may also yield to purely emotional impulses which make him experience the irresistible desire to submit himself totally to his cause, without concern for the consequences of such conduct for himself, his relations, or the rest of society. Totally fanaticized by the goal he has adopted, he is impervious to our reason, our common sense, our ideal of justice, and our moral sense, to the point of rejecting them wholesale before attempting to destroy them. Of course, he sometimes makes use of social values, but only as a pretext or captious support for his defense. This purely accidental reference does not imply a recognition of those values; it is only the ultimate contrivance, used in desperation, of a man at bay. One would therefore be wrong to see in it an abject duplicity, the demonstration of a triumphant amorality. This would amount to judging the terrorist according to criteria

that he refutes as a whole, and psychologists know that this is the way to lose the last chance at understanding a being whose mind is so foreign to us. If we seek to understand the terrorist, it is not for the purpose of accepting him or entering into his game, but on the contrary for purposes of better combating him and preventing him from doing harm.

In short, political terrorism is a violent and particularly odious act, committed without reference to our system of values, by a criminal who thus endangers or encroaches upon very precious legally protected rights such as life, bodily integrity, liberty, collective or State security, and, in certain cases, even property and financial rights. To better convey the strange position and curious motivation of the political terrorist, I will utilize a comparison borrowed from the terrorists themselves who liken individual political terrorism, which they practice, to State terrorism, which they abhor. In their definition of State terrorism they include any violent act committed in the name of State motives by a government driven to extremes; e.g., an act of war in the absence of a declaration of war, a violent repression beyond penal and police procedure against a group of bandits, exercising the right to pursue on the part of the army or police against the members of a faction who flee outside national borders to the territory of a neighboring State which offers them refuge, etc. Such a comparison was used at the Fifth United Nations Congress for the Prevention of Crime and the Treatment of Offenders, in September 1975

at Geneva, where the Arab States refused to distinguish individual terrorism from State terrorism, with the obvious goal of obtaining the implicit condemnation of Israel through a general condemnation of terrorism.

Let us say from the outset that we refuse such an assimilation of notions strictly foreign to each other. Individual political terrorism is not a political act as political science understands it, but a criminal act as penal law understands it; i.e., a punishable act ascribable to an individual who endangers social order and infringes upon the rights of others or of the State through a particularly heinous act which strikes one or more innocent victims not implicated in the contest between the terrorist on the one hand and the State and society which he detests on the other.

A Legitimation of Political Terrorism?

Some have tried to find a legal legitimation for political terrorism; this is often the role of defenders in cases brought against political terrorists. One sees the defense develop nice theories to justify the actions of its clients, theories which are immediately rejected in any case by those clients. The argument rests on two justificatory facts, types of legal excuses which remove or considerably attenuate culpability: legitimate defense and state of necessity (cf. articles 33 and 34 of the Swiss penal code).

Indeed, legally speaking, the act which consists of resisting a threat of illegitimate attack is not punishable if the author uses means proportionate to the circumstances. Similarly, in the

absence of an illegitimate attack, whoever commits a crime to preserve a legally important right belonging to him or to a third party from imminent danger escapes all penal sanctions.

Legitimate defense and state of necessity are time-honored legal principles emanating from a universal morality, and they constantly form the basis of defense argumentation in legal actions brought against political terrorists. Examples abound of trials in which Palestinian terrorists are accused of having caused the deaths of several persons, mostly women and children. The defense invariably asserts that such offenses are the only way for the accused to draw world attention to the fact that their national home for more than a thousand years has been conquered by undesirable foreigners; that from the beginning, the community of nations planned to install there a sovereign State, which implied the unjust expulsion or the deprivation of legitimate rights of the Palestinian Arabs; and that justice and morality forbid leaving the invader his booty and command that the rights of the legitimate possessors be reestablished. In the face of the impunity guaranteed by the community of nations, which the intruders also enjoy, no compromise is conceivable. Their violent actions are therefore the only way to make public opinion sensitive to that injustice; to satisfy requirements favorable to punishing the guilty; and to avenge the deaths of numerous Arabs, the expulsion of an entire population from its national home, and the humiliation of an entire race by the acts of the usurper (which, in fact, constitute State terrorism).

If one strips it of any moral dimension and if one takes liberties with realities, one must indeed recognize a certain legal value in this line of reasoning.

Fortunately, law does not serve only to attempt to justify political terrorism; its principal vocation is to combat it. Let us examine how.

Can Penal Law Fight Political Terrorism?

Without entering into detail, we know that political terrorism, like other forms of this plague, attacks legally protected rights. It is therefore penal law which will be the adequate weapon in this struggle (against homicide, kidnaping, fire, banditry, use of explosives, etc.), with its process of police and judicial procedural norms which permit penal justice to function effectively.

In democratic lands, penal law and penal justice recognize limits, while terrorism does not. Confronted with political terrorism, penal law is limited by the following institutions, which all serve in general to protect the accused from abuses and from the whim of authorities who could be tempted to abuse their power:

- The principle of legality (nullum crimen sine lege): Only terrorist acts which fulfill conditions applied by law may be the objects of penal prosecution. They must therefore exhibit the basic legal elements of the infractions in question; for this reason, "associating with known criminals" is unknown as an offense in Switzerland,

and it is necessary that a gang pass to actions before criminal justice may set itself in motion.

- The territoriality of penal law: A major fundamental principle of most criminal legislation, which forbids penal justice of a State from taking action on crimes, even odious ones, committed in the territory of another State, unless, as in Swiss law, acts committed in a foreign country by or against a national are concerned.
- The legal privilege offered to politically motivated criminals: Convinced that political motivation is more elevated than other motivations, the legislature made it a true privilege which distinguishes the perpetrator of the offense from the common law criminal. For example, it is for this reason that the Federal Constitution forbids the death penalty only for political crimes.
- The interdiction against extraditing political criminals: Under the classic extradition law, the political motivation or nature of a crime is an insurmountable obstacle to extradition of the wrongdoers.
- The democratic notions of the dignity of man and of safeguarding the individual liberties and fundamental rights of man: On a preventive level, these principles forbid the police and penal justice from violating the private lives of citizens through the use of monitoring devices, technical means of visual and voice recording, unreasonable bodily or residential searches, maintenance of uni-

versal police files; in short, through periodic and systematic checking of people and places.

Now, these preventive means, if permitted, would probably enable us to nip any inclination for terrorism in the bud. However, even Interpol, that powerful weapon against crime, is forbidden by its charter to take any action or to collaborate in the political domain.

Under these circumstances, one discovers that penal law is not an infallible weapon or a panacea against political terrorism and that the screen it has set up between society and the worst of those who are contemptuous of it is flawed in many places. These serious, numerous defects arise from the fact that penal justice can only intervene repressively; i.e., once harm has been done. The liberty of expression and action of all citizens deprives penal justice of its most effective weapons, those of prevention; the very nature of our society and of our State wish it this way. To get around this obstacle of democratic liberty, which we all enjoy, we would have to systematically violate it in the name of a hypothetical "reason of State." In fact, this would spontaneously create a state of crisis in society which the terrorists are desperately striving to provoke in order to reach their goals in an atmosphere of confused collective psychosis which would be favorable to them. The systematic prevention of political terrorism through the only efficacious means, represented by restricting or even canceling the democratic liberties of all because of the spor-

adic action of a few individuals, would be the ineluctable course leading to an authoritarian regime. Let us remember the motivation of all the strong-arm regimes which, under a pretext of reestablishing internal order, monopolized power to their own profit thanks to fallacious evasions and the unconscious aid of a public opinion weary of violence and disorder and relieved to get rid of terrorists who undermine society and its most vulnerable institutions (which are always the democratic ones). A democratic society is by nature vulnerable and fragile. Democratic paths are straight, pitfalls along them are numerous, and the only way to travel them without deviating is to cultivate in oneself a very elevated, very demanding concept of democracy.

I just used repeatedly the notion of democracy. It is useless to recall that an eminently political concept is in question, one which takes on a very different meaning according to the State in which it is used. The same also applies to political crime; we wager that Swiss, Russian, Chilean, Arab, and Israeli jurists would not be able to agree on these concepts which clearly distinguish and separate them. This is why up until now it has been impossible, on an international level, to organize the struggle against political terrorism, which plays on these antagonisms with masterly skill. According to whether they belong to this or that political bloc, the States give aid and refuge to various categories of political terrorists, to the extent that some of them enjoy the unfortunate distinction of "school" or "hideout" for terrorism, as in the case of Libya, of Algeria for anti-Jewish

and anti-imperialist terrorists, of South Yemen, and also of France for Basque terrorists. This was even the case of Switzerland, where Italian terrorists came to serve their apprenticeship several years ago. These few examples are not exhaustive: black Africa is teeming with them, and the bases of Kurdish terrorists seemed to be found in the U.S.S.R. when the Iraqi government was flirting with Washington, and in Iran when Baghdad was turning toward communism. International morality on this point is a model of fluctuation!

Under these circumstances, it is not astonishing that interstate collaboration against terrorism practically does not exist, or that it is characterized by such reciprocal mistrust as to render it impossible, with each State taking refuge behind its national sovereignty and its own political conceptions.

However, confronted with the increasing mobility of political terrorists and the evident internationalization of the phenomenon, interstate collaboration is imposing itself. This fundamental necessity to the survival of democratic societies has already been experienced before World War II: in 1936, the League of Nations had drawn up an international agreement to combat terrorism. Although on the verge of materializing, the procedure was suspended as a result of historical events. It was a unique chance, which was missed. After the war, the division of the world into two blocs, the cold war, and then the local wars did not allow the project to come up again for discussion in the United Nations

or elsewhere. War-weary, we abandoned the idea of a universal agreement which proved impossible to construct and especially impossible to enforce.

The European Convention on the Suppression of Terrorism

It was at that time that a favorable current was born in Europe for a regional agreement; in 1975, the spokespersons of the Council of Europe undertook a program of business. For the reasons mentioned above, they prudently gave up on the prevention of political terrorism and in 12 months--a record--elaborated a European Convention on the Suppression of Terrorism which was signed on January 27, 1977, in Strasbourg by 17 out of 19 member States of the Council of Europe; Austria was the first to adhere to it in July of the same year.

Instead of dissecting this very technical convention, I prefer to briefly comment on two aspects of it:

1. Why a regional instrument to fight against a global scourge? In light of the failures experienced on the worldwide scale, the Europeans are convinced that only the regional struggle can be valid and effective against this scourge, a plan which implies the participation of States with similar democratic foundation which enjoy sufficient mutual confidence to renounce certain prerogatives resulting from their national sovereignty. For example, in response to a demand from Holland, the Swiss can, in all confidence, lend a hand in the condemnation of a Swedish terrorist who had engaged in criminal activity all through Europe before his arrest in Switzerland. However, Switzerland would not

respond in the same way to a Soviet demand for extradition of a citizen of Latvian origin accused of political assassination.

It is therefore this mutual confidence among States and the similarity of constitutional-democratic bases which made possible the institution of this first international instrument in the global fight against terrorism.

2. With what means has Europe equipped itself in the struggle against terrorism? Since political terrorism is characterized by its growing internationalization and since terrorists are often discovered on the soil of a State other than the one in which they committed their crimes, it is evident that extradition of political terrorists is a particularly effective measure. As we have seen, however, extradition for political crimes is a principle excluded from most of the extradition instruments, which constitutes a serious omission.

The European Convention on Suppression of Terrorism serves to fill that gap: for the purpose of extradition, a certain number of particularly heinous terrorist acts will or may no longer be considered as political acts. Their perpetrators will thus be susceptible to extradition. The Convention will only apply to especially serious acts often affecting persons unconcerned in the motives of the terrorists. The gravity and consequences of these acts are such that their penal component outweighs their political aspects. If, for a number of reasons, the State refuses to extradite a terrorist, e.g., because he is one of its subjects, it

will be obligated to begin penal proceedings against him, to try him, and then to make him serve his sentence. This great innovation entails an extension of the sphere of jurisdiction of the State in question: aut dedere aut iudicare.

Conclusion

In conclusion, law proves to be a useful but not always efficacious means of fighting terrorism. The law is sketching out under our eyes some prudent, well-balanced rules which will perhaps make it possible one day to give up the emotional impulses and purely emotive reactions which guide our governments when they are confronted brutally and unaware with an act of political terrorism. From now on, an attempt is being made to treat political terrorism by law in the same manner throughout Europe. There will no longer be refuge in Europe for political terrorists. Perhaps in this way we will be able to escape the terrible alternative of "all or nothing."

Faced with violent terrorism which uses modern technology to coerce governments to yield to illicit pressures, two diametrically opposed, but proven, methods exist: never to yield, or always to yield; to refuse everything, or to agree to everything. These two points of view are connected in their simplicity, and both claim to be highly moral. To give in to blackmail is to become guilty of complicity in terrorism and to compensate criminals who, no matter what their motivation, have demonstrated by their acts that they are first and foremost criminals. It is also equivalent to

inviting others to imitate the terrorists, and destined to succeed.

Inversely, saving human lives is the first duty of the State and its government. This political necessity and imperative creates a state of exception superior to the law, compared to which other considerations are a negligible quantity.

A political calculation is hiding behind this distressing, dramatic alternative: if one always gives in to terrorists, recidivism becomes the rule, and demands will increase. Public opinion, traumatized by the first case of terrorism, will understand less and less, will be annoyed by what it will soon come to consider as intolerable weakness, and, in spite of all humanitarian considerations, will finally demand forcible measures and a change of policy.

On the other hand, unfailing intransigence condemns the hostages to death and doubles the danger incurred by those who must act against the terrorists, who by this time have nothing more to lose than their lives. The terrorists are cornered into a suicidal act. Finally, announcing that terrorists in the future will be subject without exception to the heaviest penalties and that justice and the government will be inflexible and merciless has no effect on terrorists. This would amount to starting from the false premise that they are sensitive to arguments of which, in reality, they know nothing, which they disregard, or, worse, which they despise.

In fact, the struggle against political terrorists through law must be completely supple and elastic so that it can adapt

effortlessly to cases of terrorism. If it is indeed necessary to give up the blow-for-blow struggle, deprived of all tactics, it is necessary by the same token to leave those who protect democracy a sufficient margin for maneuvering to guarantee its efficacy.

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El delito politico*

(NCJ 42474)

By Carlos García Valdés

The theme of political crimes has claimed an important part of my personal, professional, and scientific activity since the first time I appeared in the public courts to defend a person charged with the assumed crime of nonpeaceful demonstration.

My study concentrates principally on Spanish laws; I will set aside the analysis of other juridical systems, such as the Soviet-Communist one, whose inhumane political totalitarianism does not serve as a comparative example.

This work consists of three parts. The first part is a historical study and a definition of the concept of political crime. The second part is an analysis of some of the most common political crimes in Spain, and the last section is a study of the juridical organs that judge these actions.

*Translated from the Spanish by Mario Galarraga of Aspen Systems Corporation, 1978

Historical Study and Conceptual Precision

There are three historical periods in the evolution of political crime. The first period extends up to 1786, when political crimes were among the most serious. In this period, thousands of people were killed after having been accused of committing a political crime. Then the period of benign liberalism, born in France, England, and Belgium, shifted the balance to the other extreme. At the same time, because of anarchist violence, special laws were created making the security of the State the juridical ideal. This leads to the present state of affairs, where there is a division between benign liberalism and the hard hand of the totalitarian and authoritarian governments.

Two theories of political crime. On the problem of classifying political crime, two theories are formulated: the objective theory, which centers on the analysis of the protected juridical ideal, and the subjective one, which deals with the motive which propelled the individual to commit a political crime.

I am in favor of the second theory, but the concept of "political motive" must be limited when the subjective and objective judgments are on opposite poles. For example, one must consider, on the one hand, the beatings by Italian Fascists of persons disagreeing with the regime of Mussolini; these could be classified as "crimes of the State," not against the State. At the other extreme, political crimes committed by terrorists

against "innocent" victims are denied consideration as purely political crimes by their excessiveness.

For these reasons, I feel that a mixed theory (objective-subjective) has a very important role in this matter, keeping in mind not only the motives, but also the type of juridical ideal which is protected or attacked.

Spanish legislation. In the first place, it is important to indicate that the legal concept of political crime is nonexistent in our Penal Code. In this sense, and in the order of classification of penal infractions, the text of penal law is based on the traditional Napoleonic judgment of gravity. Therefore, the separation between common and political crimes does not exist in the legal sense, even though the legislators have dealt with the significance of the political motive in various articles. Some of these crimes have been classified as "crimes against the exterior security of the State" and "crimes against the internal security of the State."

The present Penal Code. Other types of behavior, which are difficult to define technically, are the ones directed against the universal principle of protection of the State, meaning a breaking of the legal postulate of the territoriality of the Penal Code. Articles 121-3 and 122-3 indicate that any citizen of Spain, inside or outside the Nation, who attempts to destroy the security of the State will be punished with permanent imprisonment or with the death penalty.

One article provides for the transfer of the penalty in such matters as possession and caching of guns or ammunition and crimes of terrorism. "If these acts are done by a person under 16 years old, his parents or legal guardians would be fined from 10,000 to 100,000 pesetas," according to the discretion of the court. It seems clear that this article violates the frontier of legal responsibility.

The Law of Public Order. Article 2 of the Law of Public Order of July 30th, 1959, modified on July 21st, 1971, defines offenders and offenses against the public order:

(a) Anyone who disturbs, or tries to disturb, the rights recognized by the Spanish Code of Laws, or tries to break the spiritual, national, and social unity of Spain.

(b) Anyone who tries to disrupt the public security, public services, or public supplies or their prices.

(c) Any individual involved in a wildcat strike or illegal lockout by businesses, or any provocation to produce these actions.

(d) Any person who creates confusion by means of force, or by using weapons or explosives, on a public thoroughfare.

(e) Any person who attends demonstrations and illegal meetings that produce disorders or violence.

(f) Anyone who provokes subversion or who makes excuses for violence.

(g) Anyone who commits crimes against the health of the public or breaks the sanitary rules.

(h) Any person who interferes with the maintenance of the public order and disobeys decisions made by authorities to conserve or reestablish it.

(i) Anyone who, in any other way not mentioned in the above paragraphs, would fail to obey the present Statute, or who disturbs the public peace or the social order.

All these acts are typical criminal acts and are described in diverse articles of the Penal Code.

The Political Crimes in the Spanish Penal Code

A series of crimes, delineated in the Security Law of the State, March 29, 1941, are considered more severe than in the Penal Codes of democratic Western Europe, where the role of political parties, and consequent propaganda, have barred penal repression of the sacred liberties of association, expression, and assembly.

Violations against the Nation. The following statement appears in Section I of Book II of the Penal Code, in an article detailing treason: Violations against the unity of the State, its political form, or its political organs or symbols will be punished with minor imprisonment, and if there was publicity, with maximum imprisonment.

Terrorism. Political terrorism is defined as the conduct which, through subversive acts of extreme violence and grave intimidation, tries to destroy the dominant political system.

In Spanish legislation, this type of crime is simultaneously defined in the ordinary Penal Code, as well as in the Code of Military Justice. This duplication created some questions in the area of jurisdiction; in the event that the military was judged to have jurisdiction in a terrorism case, was it sufficiently knowledgeable in nonmilitary legal affairs?

To alleviate the confusion, new articles were written. Now Military Justice has the authority to decide on the jurisdiction according to the circumstances of particular acts. The "accusation is always made by the Prosecution Office of Military Justice, but defense lawyers can be from the jurisdiction where the case is prosecuted."

The Penal Code and Military Justice put emphasis on political terrorism because the aim of the activity is terror itself, an attempt against the internal security of the State. It is indicated that persons who are guilty of an attempted crime only are also liable to lesser punishment of varying degree.

A final difficulty in the matter is the presence of Article 264, describing as a delinquent act the "mere placement of or use" of deadly materials such as firearms or explosives. This contradicts the above article concerning attempted offenses. The crucial point is how the action turns out.

The Penal Code also mentions "impropio" (unsuitable) terrorism, which is a creation of public disorders using no catastrophic means or weapons that could cause grave injuries. According to this article, the following implication could be understood: If the

disorders, caused by terrorists of this type, are committed by persons acting in a group who are members of an illicit organization, this would be sufficient to qualify the act as political terrorism. On the contrary, if the group does not belong to an illicit organization, it could be required that the group be formed of more than 20 individuals; if this is not the case, this act would be treated as a simple case of public disorder.

I don't believe that the occupation of buildings, factories, colleges, or schools is an act of terrorism. The authorities, after emptying the buildings, often impose severe punishments on the persons responsible.

Political Crimes in the Spanish Penal Code (Continuation)

The interpretation of the crimes studied in this article is far removed from the common models of perception of such acts in western democracy. The punishments for these types of crimes carry many years of deprivation of liberty.

Illicit association. These are the basic criteria available to the legislator to differentiate among types of illicit associations: (1) formal -- those that are created without obeying the requirements demanded by law, and where only the founders, directors, and president are liable to punishment; and (2) axiomatic -- those associations having a triple objective: immoral, criminal, and prohibited.

This is why, according to the Law of Political Responsibilities, all the political organizations that were part of the Popular Front

were illegal along with their allied parties, who were opposed to the National Movement.

The official declaration on the illegality of certain organizations is expressed in the following statement: The legislature not only opposes the illicit associations which are declared outside the law, but also objects to all the analogous groups, because, by just changing the group's name, they can elude the law.

Recidivism is also punished. I do not believe that it should be. A person is condemned for illicit association or for being a member of a determined political party; after serving some years in prison, however, he has not renounced his ideas. Back in society, he is still a member of his political party, but he does not participate in propaganda activities, or demonstrations. Should this person be sentenced again for illicit association? If so, a person could be condemned for merely being a member of a political party. A person should only be punished for his actual activities -- propaganda, meetings, terrorism -- not for mere association.

Simple cooperation by nonmembers with members of an association is also punishable by a minor prison term. And, if there are grave complications, the punishment would be more severe.

Illegal propaganda. Article 12 of the Statute of Law of Spain recognizes the fundamental right to freedom of expression of ideas as long as these ideas are not in opposition to the fundamental principles of the State. But Articles 251 and 252 of the Penal Code alter this concept. In practice, any political propaganda

against the present regime is considered illegal. Consequently, since political parties were abolished in 1939, their public statements are considered illegal.

The area of criminality is extended to the possession, printing, and distribution of propaganda with the intention of publicity. The Penal Code also considers clandestine printing, indicating that the authors would be liable for punishment by the maximum penal sentence. Clandestine printing is printing that does not follow the requirements set by the Department of Press and Printing. I do not agree with this interpretation. I believe that more attention should be given to the intentions of the agent.

Nonpeaceful meetings or demonstrations. The Penal Code does not define peaceful meetings and demonstrations, but Article 166 lists the assemblies that are considered nonpeaceful:

- those that violate the general ordinances established by the policy of the locale where the incidents take place;
- those meetings or demonstrations attended by a considerable number of people possessing weapons of any kind; and
- those meetings or demonstrations created with the objective of crimes as defined by the Penal Code, or during which a crime is committed.

If there is no governmental authorization and the number of people attending the meeting or demonstration is over 20, the assembly is considered a crime, "without examining the means of the protest."

Public disorders. Concerning public disorders, the Penal Code states: "Anyone who gravely disturbs the order of a Court of Justice, the public acts of an authority or a corporation, an electoral college, a public office or establishment, or a public spectacle will be punished with imprisonment and a fine of 10,000 to 50,000 pesetas. And anyone who is not a member of a center of education who tries to disturb the freedom of teaching will receive the penalty of minor prison term."

In Law 3 of April 1967, the reference to acts of "disturbance or provocation" is changed, designating this activity as creation of public disorder. Judging from this point, there is no doubt that the legislator is more preoccupied with student disorders than the disturbance of order in other places.

The Tribunal of Public Order and Political Judgments

In 1963, the Court of Justice and Tribunal of the Public Order was created in Madrid in order to examine acts in respect to the security of the State. The fundamental structure of this tribunal is:

(1) Nature of jurisdiction: The Tribunal of Public Order is distinct from the Court of Justice, although technically and legally, it is not a special jurisdiction.

(2) Delinquent competency: Political crimes in which the military does not have jurisdiction are subject to the Tribunal.

(3) Territorial competency: The Tribunal, on petition from the Prosecutor's Office, can meet and act in any part of the national territory.

(4) Composition: The Tribunal is composed of a president, two magistrates, two magistrate-substitutes, a public attorney, a secretary, and an assistant.

The operations and existence of this tribunal have been questioned by the Spanish attorneys. They argue that the ordinary penal jurisdictions (the Provincial Courts) are the only legal bodies with the power to judge all crimes, political or common.

In the Fourth National Congress of Spanish Attorneys held in 1970, the following conclusions were adopted:

(1) Extinction of the Special Jurisdictions or Tribunals is necessary; their jurisdiction should be transferred to the Ordinary Jurisdictions.

(2) The Military Jurisdiction should only deal with military crimes.

(3) The Canonical Jurisdiction should only deal with the proceedings involving nullity of a canonical matrimony.

(4) The procedures of the Special Jurisdictions and their unique attributes should be accommodated to the Ordinary Jurisdictions under guarantees and safeguards assuring that they will be open on all the matters of legality.

(5) The complete independence of the branches of the Administration of Justice must be secured; a Congress of Jus-

tice should be created with the participation of the organization of the attorneys of Spain and the faculties of law.

Summary

I did not want merely to present these questionable interpretations of the diverse articles in Spanish Law describing what constitutes a political crime. I wanted also to point out that these interpretations are being used in courts today to accuse persons of political offenses and terrorist acts.

Political Tribunals and our concept of "political crimes" should be abolished from our legal system. In Western Europe, persons, such as the members of the ultraleftist Baader-Meinhof group, appear before the ordinary civil courts. It is granted that we have the right to protect ourselves from acts of irresponsible terrorism, but this is no justification for infringement of our democratic freedoms.

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Hostage Taking, Parts 1 and 2

Geiselnahmen, Teil 1 und Teil 2* (NCJ 44110)

By Léon Borer

Hardly a day goes by without a mass media report of a hostage-taking incident or some other form of terrorism. Above all, kidnapings and abductions in Italy, Spain, and South America have taken on epidemic proportions. In West Germany, there are indications that criminals are switching from common robbery to the profitable business of kidnaping and are audaciously demanding exorbitant sums. These erratic, unexpected increases in crimes against authority offer a wide field of study for jurists, politicians, sociologists, and criminologists.

Because the terms "hostage" and "hostage taking" will be used over and over again in the following discussions, let us briefly define them. The word hostage refers to a citizen taken into custody, whose freedom and life are being held in exchange for the fulfillment of some definite demand. Hostage taking is the use of force against one or more persons which denies them their freedom

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* Translated from the German by Virginia Allison of Aspen Systems Corporation, 1978.

of movement. The hindrance of freedom of movement is always connected with an open or tacit continuing threat of murder or severe bodily harm or with the prospect of a long confinement. This threat should force the third party or the state to adopt a definite line of action. Swiss penal law does not recognize the concept of "hostage taking." Present developments call for a tightening of article 182 of the Swiss Penal Code, in order to also cover the punishable preliminary acts.

The primary point to consider is that for hostage taking, as for other crimes, there is no absolute preventive measure. Finding one would mean, in the words of the Swiss Minister of the Interior, an absolute repression of liberty.

Considering the problem from the viewpoint of police tactics, one must realize that in a liberal regime, perpetrators can freely determine place (e.g., embassy, office, airport, railroad, prison, hotel, conference hall), time, and intensity and type of hostage taking. These facts do not suggest resignation to the problem as long as the police are not too severely restricted in the criminal process and are trusted to perform their often difficult duty.

Efforts made to strengthen aircraft security are cited as the best example of an effective struggle against the new manifestations of terrorism; these preventive measures are adept, albeit expensive. The government spends over 15 million francs each year on this effort. According to an American study, there were 86 aircraft hijackings in 1969, with only 13 successfully prevented; in 1972 there were 62 hijacking incidents, 40 of which saw success-

ful interventions. As an example of effective security measures, every attempted hijacking can be quickly and efficiently put down since armed security guards have been flying with Swissair flights. These examples show that nations do not have to surrender powerlessly to terror; however, they also show that security is expensive. For international air travel, then, the situation looks rather positive. We realize today that, because of the risk involved, political and nonpolitical hostage-taking incidents have been directed in increasing numbers against targets other than airline passengers.

The trend is moving clearly toward kidnaping, in which criminals as well as "political gangsters" kidnap people. The list of victims -- Lorenz, Oetker, Snoeck, ultrarich Italians, politicans -- is growing, as are the extortion amounts. Some contemporaries consider kidnaping a gallant crime and openly or tacitly welcome a Robin-Hood-style redistribution of wealth. Extortionate crimes are escalating into terrorist crimes, in which victims are tortured or terribly mistreated. One is reminded of the case of Oetker, in which the hostage was crammed into a trunk and electric currents were sent through her body; of Snoeck, who was chained to the supports of a highway bridge and abandoned; or of Mark Getty, whose ear was mutilated. This alarming increase in brutality and in the amount of demands reveals that the perpetrators do not hate property owners as such -- they are trying to get rich themselves. Thus, the ransom demands are getting more and more audacious and are often accompanied by cruel tortures.

In an overview, an analysis of hostage taking with regard to the reactions of the authorities is also useful. According to a study by the national police, since 1970 certain tendencies can be identified in politically motivated hostage taking with international connections. The Federal Republic of Germany was yielding to terrorist demands up until the hostage-taking incident in the German Embassy in Stockholm in April 1975. Then, after the Lorenz case, the nation became rigorously aware that the State could no longer allow itself to be blackmailed without a loss of authority. France has consistently given in; e.g., as in Somalia and in The Netherlands, where the ambassador was taken hostage. In the case of Abu-Daud, who confessed to being an accessory to the planning of the Munich assassinations, the French Government followed an expedient policy. The English and Dutch in recent years have successfully employed tactics of delaying and wearing down terrorists as in the prisoners' revolt in the Scheveningen Prison and the Beilen train incident. Consequently, Israel, the U.S.A., and Canada have, almost without exception, never yielded to terrorists.

On the other hand, a flexible procedure is practical in dealing with criminal hostage taking, where negotiation skill takes precedence. For instance, in the U.S.A. there are 500 open hostage-taking incidents every year; and, thanks to capable, adept intervention, they very rarely have a tragic outcome.

In addition, it is important in every police intervention to realize that hostages who have not been killed within the first

24 hours after perpetration of the crime generally survive the incidents. This holds true not only for open hostage-taking incidents, but also for kidnaping with a political or purely criminal character. From this, we can go on to state that in criminal hostage-taking incidents, the perpetrators generally do not want to kill. Such is not the case, however, with political hostage taking, as in Stockholm or in Vienna, where unarmed hostages were shot to death in cold blood in the very beginning of the incident for purposes of shock and intimidation. Thus, the essential difference in actions of political and common hostage takers lies in escalation of the means of intimidation used: in the former, murder is planned and intentional; in the latter, destruction of human life is the exception.

Basic Principles

We will now discuss the principal considerations the police should make in relation to hostage taking. First, one must always keep in mind the following dominant principle for all police actions: the safety of the hostages comes before capture of the perpetrators and the preservation of material or ideological values.

Of course, this principle is relative in the case of politically motivated hostage taking. Besides human life, other values must be judged (such as the danger that terrorists who are allowed to go free will commit new terrorist attacks as in the Lorenz case, in which the freed terrorists later surfaced in Uganda). The dif-

ficult major decision--whether to yield or not--must pass through the policy-oriented crisis staff. Examples from the past and the present show that yielding behavior on the part of nations leads to a horrible escalation. In Italy, cases are already famous in which, because of a demonstrated unyielding attitude by the family (on the advice of the police), the perpetrators let the hostages go free without ransom. Of course, the present terror situation in Germany shows that the unyielding attitude of the state reduces the hostages to the status of weapons or materials of war, so that the terrorists, as in the Buback case, resort to even more brutal methods of intimidation.

Since in many areas there are identical problems to solve in political and nonpolitical hostage taking, the statements refer primarily to nonpolitical hostage taking and particularly to kidnapings.

A second basic point worth mentioning is the pressure of the publicity to which the police are exposed in hostage-taking incidents. People often expect miracles and news from the police, forgetting that with kidnapings, they must deal with a complicated equation containing a series of unknowns, namely: location of the hostage and the perpetrators, condition of the victim, number of perpetrators, tactics of the perpetrators, and identities. In addition, even amateur criminals have tactical and psychological advantages over the police in a kidnaping.

Despite the best work provisions and quick initial success, it is nevertheless practically impossible for the police to seize the

initiative, as the perpetrators possess a planning advantage, dictate the outcome of the entire extortion organization, can at will gain time for reflection through unexpected developments, and in the event of a tactical error are protected from the grasp of the police by continual threats against the hostage. This presentation reveals emphatically the dissimilar initial assumptions in hostage taking. The police can only oppose it with a rapid mobilization of their best forces. The measures taken by the police in the first minutes and hours aim to prohibit shooting except in cases of emergency, to seal the crime scene airtight, and to accurately record the evidence under the supervision of all available criminal technicians, including as many useful clues, statements, and observations as possible for use in a broadly planned search. Similarly, directed search orders and information from any possible witness are also necessary. These in turn could give rise to extensive checking of alibis. All of these activities require time and qualified personnel.

In hostage taking, the negotiations tactics--an additional important factor--play a significant role. The procedure is substantially facilitated by consideration of a few psychological factors. One can distinguish three phases of the crime in criminal hostage taking: an "affective" phase, during the first 2 hours after execution of the crime, in which the perpetrator is unpredictable and, therefore, the hostage is in acute danger of his life; a "cognitive" phase, in which the perpetrator returns to more or less "rational thought"; and after about 10 hours with

lone perpetrators or about 3 to 4 hours with groups, a "chaotic phase," in which the perpetrator again becomes unpredictable.

Politically motivated hostage-taking incidents have only two phases--"programed" and "chaotic." In Stockholm as well as in Vienna, the terrorists showed that they composed themselves fairly quickly after committing the act, which is only possible when there has been a previously decided, well thought out, coordinated, and rehearsed plan. Thus one can say that through the most intensive preparation and prior working out of the pressures of the attack, the perpetrators go about their work programmatically. This militarylike procedure fits into the image of so-called urban guerrillas like the Baader-Meinhof gang and similar organizations. Important realizations for the timing of a police offensive result from this evaluation of the criminal.

An investigation of the motive plays an important role in the analysis of the kidnaper. We know that the perpetrator actually never looks for death, but always for a means of escape; the police must leave the way open for him to surrender with honor. Here persons close to the perpetrator, such as parents, teachers, and clergymen, can supply the beginnings of a fruitful dialog which, through skillful negotiation, can lead him to surrender.

Important criminal tactics principles also worth following, such as planning and uniformity, must be carried out from the first moment of a hostage-taking incident. Clear designation of authority helps to avoid duplication of effort. Here it should also be pointed out that police leadership holds a key position in hos-

tage-taking situations.

A successful struggle against terrorism (including hostage taking) begins in terms of leadership and not with the commission of the act. Of eminent importance is the intelligence service advance field work of the criminal investigation department as well as the national protective agency. Another favorable provision for a coordinated reaction to hostage taking is the immediate response of the coordinated crisis staff on both police and political levels. In this area, the national police in the Federal Justice and Police Department and a few cantons have created models tested in practice.

However, these two measures result only from a competent prepared plan of action. It should be mentioned incidentally that before, during, and after the initial response, the operation, with immediate measures, evaluation of the situation, giving of orders, and planning, runs like a military operation.

Police Tactics

This section will discuss the personal and material aspects of hostage-taking situations and will highlight important actions. If a unified direction is required from the beginning, then tasks must be carried out in work groups. These groups are free to carry out orders in their own way, using their own initiative and imagination, to determine the quickest method for carrying out their task. Thus, one can profit from use of "management by objectives" methods.

In the police criminal information departments, only the best people are good enough, as was demonstrated in the Lorenz and Buback cases. An immediate judgment must be made on a flood of information to distinguish the urgent from the routine and the essential from the nonessential. Effective search orders must be made from these judgments. In the processing of data, the detectives' experience plays a major role, as an important clue can be lost or go unnoticed if priorities are poorly set. In short, for tracking down and apprehending criminals, detectives with imagination, foresight, and persistence are necessary.

In the Federal Republic of Germany (FRG), people are demanding the establishment of a new division of the Federal detective bureau which would be concerned exclusively with kidnaping. As for police intervention, each large and medium-sized canton has at its disposal qualified, well-equipped, and well-trained antiterrorist detachments, who are regionally trained for their job according to standards established for all of Switzerland. The urgently requested Federal security police, therefore, could be established relatively quickly. It should be mentioned here that the Swiss Police Institute, supported by the National Bar and the Federal Military Department, fulfills a central function in this nationwide training. Kidnapings do not create additional work only for the police; other agencies, such as the postal, telephone, and telegraph services have their routine business disrupted. Therefore, in the Nespoli kidnaping case in Mendrisio, many technicians were continually on call. Most people are well aware that

there is a great deal at stake in a hostage-taking situation. The possibility of making irreparable errors is greater with a kidnaping than with any other crime. Through a well-planned use of resources, the risk can be minimized.

We cannot, however, expect miracles from technology. Special equipment which is used to combat espionage can be useful, although it does not replace human thought. Without divulging any secrets, we may say that today there exists highly developed equipment with which someone in a helicopter or ground vehicle can follow a person or a vehicle from a distance. Miniature transmitters are used for this purpose. One can see that there are no limits to the imagination. There are, however, limits to technology; for example, the range of radio waves in populated areas is not always satisfactory. Today, criminal technology has such resources as miniature tape recorders and miniature cameras, as well as special materials for securing fingerprints or for preparing ransom money. The police computer has proved itself a valuable search tool in extortion cases: it is able to store the bank note numbers of ransom money, as in the Oetker case. All police departments, as well as banks in the FRG, presently verify the numbers of any notes greater than 1,000 DM presented to them, thus severely restricting the perpetrators' opportunities for disposing of the money. Also in this area, the long-awaited Swiss Criminal Information System (CIS) could fill a gap, completely aside from the urgent need for nationwide, current, complete investigation data, in order to eliminate the existing confusion.

Two further references to the statements about material possibilities should be mentioned. Not long ago, Capt. Kuenzi from Geneva and the author spent some time with the Intervention Group of the French Gendarmerie. There they were introduced to a technique using gas which will give the police a wider area in which to work during an overt hostage-taking situation. A high concentration of a particular gas works immediately to paralyze the subjects, thus allowing, in all probability, a conclusion without bloodshed. Another method observed in Paris and London was the use of packs of attack-trained police dogs.

Cases can be solved or valuable information obtained not only through negotiations and force, but also through gentle persuasion; this has been demonstrated by early successes in the use of hypnosis. This newest weapon against hostage takers was used successfully in California last year when a schoolbus carrying 26 children disappeared without a trace. Three masked persons had parked a vehicle in front of the bus and forced the passengers to drive into a quarry, where the bus was buried in a hole. After 16 hours, the prisoners freed themselves. The Federal Bureau of Investigation sent for the well-known Professor Kroger, who had established and trained a 14-man hypnosis unit for them in 1975. The hypnotized bus driver was able to give the car's license number, and 3 hours later the kidnapers were taken into custody. In the operation to free the hostages at Entebbe, released hostages under hypnosis gave exact information about the airplane and its location and personal descriptions of the terrorists. Hypnosis

has possibilities which should be explored here in case of future need.

Negotiating Tactics

The discussion would not be complete without a word about negotiations tactics. The three primary goals of negotiations are: discovering the identity of the guilty parties, gaining time and getting the abductors off balance, and freeing all or some of the hostages. During one International Criminal Police (Interpol) seminar, all the delegates agreed that words are the best weapon against criminal hostage taking. Experiences confirm that more hostage cases have been resolved through negotiation than with force.

In this connection here are some important negotiation principles: (1) choose negotiation partners whose rank is not too high so that counter questions will be plausible (in Cologne, the detective chief made himself head negotiator and a substitute hostage, which later proved to be a serious tactical error); (2) as a general principle, do not exchange hostages; (3) never give in to a demand without getting something in return; and (4) force the abductors tactically into constant decisionmaking, first to tire them, and second to divert them from their original plan. The police would certainly be well advised to admit the assistance of a competent psychologist in the negotiations.

The police must often carry on strict negotiations, not only with the kidnapers, but also with the relatives of those abducted.

It must be made clear to them that hostage taking is an act prosecuted by the state. It follows that the freeing of the hostages is not the only objective; the abductors also must be captured. This aspect is often forgotten, even though the quick clearance of kidnapings and other crimes is the best deterrent. In Italy, a higher clearance rate, quick criminal proceedings, and severe punishment set the kidnaping industry back by deterring potential abductors. The police must therefore persuade, or if necessary, pressure the relatives to cooperate in solving the case. A situation could quite possibly arise in which the police would have to take action against the relatives for aiding and abetting according to article 305 of the Criminal Code.

From these illustrations, it follows that the police must determine the negotiations tactics--naturally, as far as possible in agreement with those affected. In the Nespoli case, the police directing the effort had to severely restrict the liberty of the extortion victims, with their consent, a tactic which later proved to be correct.

Negotiating makes sense only, and this is important, when one is certain that the hostages are alive. The cooperation of all concerned is essential, as it is useful to ask the abductors complicated test questions which only a live hostage could answer. All of these problems are delicate and demand a great deal of tact as well as firmness on the part of the police. As there could arise some emotional attachments between the police and the relatives, the person in charge of the negotiations should maintain a certain

physical and personal distance from both the relatives and the crime scene.

A further problem, which is often a difficult one in directing the negotiations, is the control of the media. One must recognize that even in the most intensive covert investigation, the police must not leave the media starved for information. In the Nespoli case, a total information blackout proved worthwhile; in different circumstances, however, the police may urgently need the public's help in the search. A type of fair play, adapted to the situation at hand, could be decisive. Thus, one prevents independent media investigation and/or the dissemination of false reports and half-truths, which can compromise police plans or provoke the abductors. In any case, the police must correct any false reports which would act to incite the kidnapers.

Another topic, which will be discussed briefly, is increased personal protection efforts and preventive measures carried out by private individuals. Many kidnapings fail when personalities who are exposed to risk become more aware of their surroundings and follow a few basic rules. The Lorenz and Buback cases, as well as many others, confirm that kidnapings are prepared well in advance, with a long period of reconnaissance. Sensitizing target persons through greater information is another duty of the police.

The extent of the problems to be overcome through efficient management has been indicated. Timely, well-planned action is only possible when the leader has at his disposal an efficient staff. Holding a group of qualified detectives in reserve until

well-rested or until 48 hours has elapsed has proven to be effective. Each leader should summon the courage to do this.

Another basic question--that of the use of weapons--is less of a burden to the negotiations leader. Basic decisions regarding rules of conduct, to allow shooting or not, will be made at a higher level. The actual firing or the order to fire is the only tactical matter to be determined at the scene. It is sufficient to recognize that the order to fire must always remain a last resort after careful consideration of legal ramifications and if the hostages are in immediate mortal danger and cannot be freed by any means other than a fatal shooting.

Conclusion

The preceding was incomplete: the questions have not been answered or have been answered only partially. These facts, however, bring out the wide range of problems with which the police must come to terms in an emergency under the pressure of time.

Presently the crime of robbery is growing alarmingly in this country. As can be seen in Italy, the criminal hostage taker is the usual robber type. Switzerland has not yet been seriously challenged by all kinds of hostage taking; however, considering the usual Helvetic delay, the Swiss must count on an escalation in this direction. Since up to now the Swiss have not generally committed violent crimes in groups, the prognosis is, at present, not too pessimistic.

In any case, the police welcome the criminalization of terror-

ist group organization, in order to encompass criminal preparations in the sphere of terrorism effectively and in good time. For example, severe restrictions should be applied if the prerequisites for telephone monitoring of specific people are tightened in such a way that this measure, which has up to now been used cautiously, is dulled, and the timely apprehension of terrorists thus made more difficult.

What has been said will surely have confirmed that there is no generally valued tactical plan for handling hostage-taking incidents. On the contrary, measures conform to the concrete situations based on consideration of all circumstances and eventualities. In the future, the police will certainly do their best, but they can't work miracles. They are realistic enough to agree with Jean Batigne, that "The police are criticized for what they don't do, but even more for what they do." Today this means more than ever to come out determinedly against violence and terrorism.

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Cooperation Between Police Helicopter Crews and Police Forces and Resulting Possibilities for Exercising Preventive and Repressive Influence

Zusammenarbeit zwischen Polizei-Hubschrauberbesatzung und Einzeldienst unter besonderer Beruecksichtigung aller praeventiven und repressiven Einwirkungen* (NCJ 35225)

At the beginning of 1976, the leaders of helicopter units, their representatives, and leaders of national and State traffic control units met for a several-day seminar at the Polizei-Fuehrungsakademie (Police Command Academy) to exchange practical knowledge based on experiences from their 1974-1975 operations. The working group came to a number of conclusions, the first of which responded to questions regarding intensification of the cooperation between helicopter crews and police forces:

- Experience will show whether the general operations commander should fly with the helicopter, or should instead delegate command authority to a competent officer. Not only should facts be confirmed and reported from the helicopter, but necessary orders should be passed on directly.
- Patrol flights should be conducted daily in support of

* Translated from the German by Virginia Allison of Aspen Systems Corporation, 1978.

the police forces. All officers in authority must be more aware than ever that the helicopter is not an exclusive tool of particular departments, but is a command and operations tool for all departments which can help to carry out police goals. In addition, through regular and frequent utilization, its preventive influence should be enhanced, immediate readiness developed, and cooperation with the police forces strengthened so that later operations will be even more productive.

- In order to obtain a clear flow of information, all patrol cars should have markings visible from the air which correspond with their radio call signs.
- Highway kilometer markings should be readable from the air so that helicopter crews can transmit clear location indicators.
- Helicopters should be called in on major operations of the uniformed and detective divisions; for example, in joint accident prevention efforts or for surveillance and search.
- The detective division should make particularly intensive use of helicopters; for example, in discovering and presenting clues at outdoor crime scenes and in determining relative locations of clues.
- In rescue work the helicopter equipment can supplement the ground rescue unit.
- The technical commission should examine what kind of device

could be used to record incidents from the helicopter for purposes of evidence. It is important that not only the incident be represented, but also its time and duration.

- The helicopter could also be better utilized as a means of transportation. New possibilities arise here, such as the rapid transfer of control forces to new operation sites or the transporting of mobile detachments in heavy traffic for the purpose of accident photography. Finally, it was determined by the working group that the helicopter could be better utilized if it were generally used in all cases in which it could support ground forces in any way.

Preventive Significance of Police Helicopters in a Traffic Function

Another working group, concerned with the preventive significance of police helicopters in a traffic function, began by stating that such aircraft have been a proven and indispensable command and operational tool for more than 10 years. Particularly with regard to constantly rising traffic density and resultant traffic jams, the helicopter's direct use in the field of traffic control is more and more significant. Although the preventive effectiveness of the helicopter to the police cannot be measured in numbers, its value cannot be overrated.

These conclusions were based specifically on the following functions of police helicopters for direct or indirect prevention of traffic violations or for special uses in urban areas.

Direct prevention by police helicopters

- Helicopters are recognized by a majority of road users over large areas (the reciprocal action of seeing and being seen or heard).
- Their presence will cause drivers to stop making dangerous or unlawful passing maneuvers in traffic.
- Their presence will help improve maintenance of a safe distance in the flow of traffic.
- Their presence will halt unlawful driving on the left side of the road, particularly on the Federal highway.
- Their presence will cause drivers to regulate themselves regarding dangerous driving speed (maximum and proper speed).
- Their presence will greatly reduce improper procedures at highway intersections or junctions (turning or backing up).
- Officers make loudspeaker announcements (ordering the safety marking of broken-down vehicles, insuring safety in traffic jams, keeping the middle passing lane clear, etc.)
- Officers use hand signals to warn of or recommend specific driving conduct (drive slowly, drive to the right).
- Officers make drivers reduce speed at dangerous places ("bottlenecks") where vehicles converge.
- Helicopters and their crews offer traffic jam security by hovering crosswise to the direction of traffic.
- Helicopters offer "first wave" measures at accident

scenes or hazardous places (first aid, clearing the road).

Indirect prevention by police helicopters

- Helicopter crews make traffic situation reports (reconnaissance and preliminary survey).
- They report severe traffic tieups.
- They request and direct police forces and auxiliary services.
- They recommend traffic diversions to traffic control rooms.
- They use television broadcast stations for public information purposes.
- They take aerial photographs for planning purposes.

Special uses for police helicopters in large urban areas

- Helicopters are particularly suitable for the purpose of traffic clearance and control.
- Helicopters afford the best spatial orientation as a result of the most precise knowledge of the area on the part of crews and police pilots (therefore the use of Federal Border and Armed Forces helicopters has only limited possibilities).
- The helicopter is an indispensable command and operational tool for the traffic control center as well as for the police pilot for controlling traffic during rush hours and at mass assemblies.
- Direct control from a helicopter at mass assemblies guarantees the smooth flow of the operation.

Operational Effectiveness

According to the working group, in order to enhance the positive preventive influence of helicopters, aircraft must be used more than before in daily patrol with uniform principles for every State. For those States that do not have any helicopters at their disposal as yet, their procurement is sincerely recommended. The improvement of operational effectiveness requires constant close cooperation as well as a continuing exchange of practical information between the leaders of the traffic divisions and the police helicopter crews.

The working group also envisioned a strengthened publicity effort, particularly with the press, radio, and television, to further enhance the preventive influence of helicopters.

Possible Repressive Uses of the Police Helicopter

As was previously mentioned, the police helicopter is an operational tool that above all should have a preventive influence, particularly during daily patrol flights. In addition, it should be useful in traffic observation and control over a broad area and should assist in the optimal performance of police operations as a suitable instrument for both command and reconnaissance. Beyond that, however, it must not be overlooked that the police helicopter, with its overall technical conception, speed, versatility, and independence from traffic, is well-suited, even predestined, to use repressive measures to accomplish performance objectives in traffic. This applies especially to those traffic

violations that cannot, or can only with difficulty, be identified from the ground and then only with insufficient evidence.

Repressive uses of police helicopters can be either ad hoc measures or directed efforts. Ad hoc measures are taken when serious traffic violations are identified during the course of a patrol flight. Directed efforts, on the other hand, are the consequence of a more or less extensive accumulation of knowledge. Such actions are planned, major efforts, directed at focal points where frequent serious traffic violations have been identified. Ground forces (radio patrol cars) which have already been detailed are also used in these directed efforts.

Repressive uses of police helicopters are significant, however, because the helicopter crews have an advantageous view of the countryside, better possibilities of identifying and stopping violators, and the potential for intervening outside of densely populated areas with minimal disturbance to uninvolved persons.

Stopping Violators

The actual stopping of identified traffic violators by helicopter crews should be the exception; it must not be allowed in principle because the helicopter must fly ahead and find a suitable landing site. In this way, the crew usually loses visual contact with the vehicle to be stopped. Abandonment of the vehicle or a change in direction have been known to happen. Furthermore, distinguishing marks on the vehicle are only perceptible from the

air with difficulty, if at all (visual angle, distance, vehicle's cleanliness). Even briefly losing visual contact can be particularly disadvantageous when several vehicles of a similar type and color are traveling on the same road in the same direction. An improvement in the situation can be expected only when helicopter crews have at their disposal distance-adjusting, gyroscopically stabilized binoculars for identifying distinguishing markings.

The stopping of vehicles by helicopter crews should not even be considered when the expense involved is not reasonably proportional to the desired goal; this is the usual case with violations which are punishable only by a cautionary fine. In ad hoc situations as well as in directed efforts, cooperation with radio patrol cars is absolutely necessary.

Technical Devices for Preservation of Evidence and Documentation

With ad hoc measures as well as with planned action, the use of technical devices for the preservation of evidence and documentation of serious traffic violations is of particular value, as it graphically supports the testimony of police officers. Thus, as much use as possible should be made of all available means of documentation; this is particularly true of aerial and Polaroid cameras, but also of movie cameras in normal commercial usage.

In addition, the video recorder can be an excellent means of documentation, as it combines the advantages of movie cameras and Polaroid cameras; that is, it records moving events and reproduces them immediately without expense. In addition, the quality

of the picture is often better than that of the other cameras.

Cooperation Between Helicopter Crews and Ground Forces

In concentrated operations, it has always proven advantageous to use ground forces familiar with the location and situation and to make them responsible for protocol, such as evaluation lists, and for coordinating reports. This offers the advantage that the reporting procedure can be immediately concluded within the appropriate office and that only those officers who are especially familiar with the situation in the location under surveillance act as witnesses. In addition, the preparedness of the helicopter police is not impaired by the need for official attendance at court sessions.

Identifying Particular Traffic Violations

In using police helicopters to combat traffic violations, only certain violations and minor traffic offenses are considered: those which have resulted in accidents (and in these cases aerial photographs can contribute to the documentation together with accident photos), those which from past experience lead to serious accidents (major accident causes), or those which seriously impede the flow of traffic so as to result in a traffic tieup or congestion. In particular the following violations may be identified from the helicopter:

Exceeding the speed limit. While an overall lowering of vehicles' speed is not well suited for helicopter surveillance, certain local restrictions lend themselves to the technique, particularly

in construction areas and in places where speed restrictions have been imposed because of road conditions.

There are several possibilities for exercising repressive measures in speed regulation:

- The traveling speed of the vehicle is determined precisely enough (airspeed $\pm$ wind speed = groundspeed) by a helicopter crew flying above and behind the vehicle at an even altitude and an approximately constant distance, based on the crew's experience in observation, where tolerances must be taken into consideration. A radio patrol car is then requested, either to stop the vehicle immediately or, for patrol cars equipped with a radar speed recorder, to follow and determine the exact speed and then stop the vehicle. For the particular purpose of following vehicles, specially equipped police cars should be used.
- The speed of the vehicle can also be determined with the help of marked sectors (particularly in construction areas) or existing roadway markings and indicators, using calibrated stop-watches and appropriate speed charts. In these cases, as with the other measures presented, actual stopping is again carried out by ground forces.
- Finally, a quartz-controlled movie camera with an exactly timed picture sequence and a suitable frame-counting mechanism could be used instead of a stop-watch with the above-mentioned procedures. This offers the advantage that documentation which can be referred to later is made

along with the measurement.

Improper maintenance of distance. Special traffic surveillance cameras set up at bridge construction sites have been found to be an effective means for identification and documentation of incorrect maintenance of distance; however, this device alone is not sufficient, chiefly because there are too few suitable surveillance locations. This existing gap can, however, be closed by using helicopters. First it is worthwhile to determine the speed of the vehicle, as described above. In determining an improper speed, at least the official road marking and the driver whose vehicle was maintaining a distance from the car ahead recognizable in car-lengths must have been recorded.

Improper passing. Fewer problems arise in identifying improper passing incidents than in determining speed. As this concerns local restrictions, the helicopter crew must be sufficiently familiar with them. Thus a better recognizability of these restrictions from the air would be desirable.

Sectors in which it is illegal to use the third highway lane are sufficiently recognizable by highway markings. Other passing violations, such as improper weaving in and out, are not dependent on the location. In all violations, the proof should be obtained using technical devices (aerial cameras, movie cameras, and video recorders).

Unlawful stopping, turning, and backing up; improper entry. These violations are chiefly committed just before highway intersections and junctions. A concentrated control effort is not suggested

because incidents are too widely scattered, and such an effort would require that helicopters remain too long in these locations. It has proven sufficient, however, to fly around major intersections several times during the course of a patrol.

Driving too slowly and driving on the left side of the road. Violations of this kind must be observed over a longer driving distance. For this it is necessary to determine the exact sector and the interference resulting from the violation and to conclusively document it. This, however, often can be successfully done only by helicopter crews because of their better perspective.

Insufficient safety measures for disabled vehicles. Prevention is always important when violations of the requirement to mark disabled vehicles are identified; for instance, an order should be given to the violator over the helicopter's loudspeaker to mark the car according to the law. Of course, it is also necessary to call in a radio patrol car to get the situation corrected.

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Banditry and Security in French Banks

Le banditisme et la sécurité dans les banques en France*
(NCJ 42805)

By Jean Bellemin-Noël

The Evolution of Bank Criminality

The exploits of past and present bank robbers, notably Jesse James, Jules Bonnot, the Dillinger brothers, "Pierrot le Fou," and an armed band of criminals who in 1976 held up the Bank of China in Cheng Chow for $100,000, are cited as evidence for the close tie between the history of modern crime and the development of banks. In France, banks, with over 25,000 tellers' windows, represent nearly one-fifth of armed criminals' targets.

Armed bank holdups became a serious problem in France for the first time in 1962, when a record-breaking 88 attacks were reported. As a result, in 1963, a joint commission composed of representatives from the banks, the Ministry of Interior, and the insurance companies established guidelines which directed the protection of financial institutions for the next 10 years. It called for the installation of alarm systems and silent alarms linked with the

* Translated from the French by Technassociates, Inc.

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police stations and the gendarmerie brigade headquarters. Banks of this period, known as "cathedral banks" because of their limited number of cashiers' windows or counters, needed special protective measures. Isolated and enclosed cashiers' compartments fully protected on all sides and equipped with "retractable" cash drawers were installed in these banks.

During the next 3 years the number of holdups dropped sharply to 25 in 1965. In 1967, however, a law enabled the liberalization of the opening hours of tellers' windows, the creation of the "department store bank" whose planning failed to take security requirements into account, the democratization of the use of checks and credit, and the creation of small branch offices. All of these factors encouraged holdups, placing them within the reach of the most amateur "gangster."

Statistics show that the number of holdups started climbing in 1967 and reached 778 in 1973; i.e., 10 times the number in 1964. The measures undertaken in 1963 clearly were no longer adequate to deal with the banks and criminals of 1973.

New meetings held between bankers and Ministry of Interior representatives set forth new security provisions, particularly for the most victimized banks -- small institutions with a maximum of five employees. Indeed, the number of attacks against them represented 76.74 percent of the yearly total in 1973, 76.09 percent in 1974, and 73.92 percent in 1975.

Although the number of bank holdups decreased in 1974 by 24 percent for the first time in 10 years, they increased again to

625 in 1975 and 730 in 1976. Furthermore, the criminals began to resort to the taking of hostages, which occurred for the first time in France in 1971. In 1974 and 1975, nearly 160 bank employees, customers, or passers-by were held as hostages in 55 bank holdups; 1976 saw a great decrease in such acts.

Implementation of New Security Measures and Reactions of the Banks and the Police

The increase in armed attacks during 1975 and 1976 and the new form they took (i.e., the taking of hostages) led French authorities to strengthen bank surveillance with the help of police and gendarmerie units. They encouraged the banking facilities to install appropriate security devices to protect both individuals and funds, to discourage potential criminals, and to assist police and gendarmerie investigations. Increased security efforts took into account the fact that attackers choose targets with the fewest obstacles. Thus, between 1974 and 1975, there was a 4.54-percent decrease in the number of armed attacks against banks equipped with remote control electronic doors.

An examination of the rate of utilization of certain employee-activated security devices showed, however, that the installation of these devices did not guarantee their effective use. The most common, the ringing alarm and the retractable cash drawer, had been operative for about 10 years but were seldom activated in the event of a holdup. When the alarm was set off, it was usually to report the holdup after the attackers had left. Specifically, the alarm system, which was in operation in 1,504 of the 1,997 banks

where holdups had occurred or were attempted during these 3 years, was not used in over half of the cases (54.72 percent). In 35.34 percent of the cases, it was activated only after the holdup. The retractable cash drawer, in operation in 1,640 of the banks, was not used in almost three-fourths of the cases (72.23 percent). Finally, the direct link with the police or the gendarmerie, which was in operation in 687 of the banks, was not used in almost one-fourth of the cases (23.58 percent) and was used after the holdup in 46.14 percent of the cases. The main reason for the low rate of use of these devices was the staff's fear of provoking the robbers to commit an act of violence or to take hostages, especially when the police or gendarmerie moved in.

Another security device, the camera, was first used in banks in 1973, and by 1975 cameras were in operation in over one-fourth of the banks attacked. Their percentage of nonutilization decreased to 35.5 percent in 1975. However, the hoped-for deterrent effect of bank cameras has fallen short of expectations, as witnessed by the fact that, in 67 percent of the cases in 1974 and 59 percent of the cases in 1975, at least one of the perpetrators entered the bank unmasked. Technical errors involving the choice of camera equipment and the installation and placement of cameras have limited their capacity to provide identification of the wrongdoers as well as evidence of wrongdoing, thus curbing their effectiveness as deterrents. Nevertheless, during 1974 and 1975, in 56 percent of the cases where the holdup was recorded on camera, the investigators were able to make successful use of the photographic evidence.

Since 1973, government authorities have recommended that banks with fewer than six employees install electronically operated doors as well as cameras. In 1975, nonetheless, 111 out of 625 holdups were committed or attempted against banks equipped with remote control doors.

All in all, the wrongdoers were successful 564 times in 1975 and 529 times in 1974, but failed 60 and 65 times respectively. An examination of the use of security devices in those 125 banks against which holdups were unsuccessful shows that there is little difference between the security measures and equipment of these banks and those of banks which were successfully held up.

Employee attitudes determined the frequency with which the security devices were activated before or during the holdup. Although security devices are often present, it remains for the employees involved to have the know-how, the opportunity, and the willingness to use them. When activated, security devices helped minimize losses, and in 1974 and 1975, when the alarm or drawer was activated before or during the crime, the losses did not exceed 20,000 francs in 60 percent of the cases. This proportion decreased to 49 percent when the security devices were not activated in a timely manner, when they were not used, or when they had not been installed.

The Need for Cooperation Between Law Enforcement Forces and Banks

In 1974, pursuing a national policy of close collaboration between the public sector and banking institutions, the Central Office of the Judiciary Police, with the joint participation of

French banks and local police, conducted a statistical survey of actual and attempted armed bank holdups in 1973, a record-breaking year. They developed a questionnaire which was sent to the victimized banks. The resulting data allowed the police authorities and gendarmerie to better adapt their patrols and surveillance to deter bank crimes, to protect both banks and money transfers, and to improve their intervention methods.

In 1975, a round table group of representatives from the National Police, the gendarmerie, banking institutions, and labor unions was organized by the Ministry of the Interior to further analyze the data collected in 1974 and to define a national bank security policy.

The resulting document signed in December 1975 set forth specific security measures, among them seven central points calling for:

(1) designation of a security officer within each bank;

(2) training of bank personnel, particularly tellers, in security procedures;

(3) strict adherence to security measures and limitation of bank holdings to minimize losses in a successful holdup;

(4) provision of security devices for the protection of personnel and funds, both to deter wrongdoers and to assist the police and gendarmerie;

(5) installation of special security devices for after-hour bank windows;

(6) arrangements for the protection of armored truck money transfers; and

(7) local organization of money transfers.

The first two measures in particular entail close cooperation between the police and bank employees. Specifically, the security officer charged with bank security in each bank must stay in close contact with police officers in order to evaluate security risks and facilitate police intervention when necessary. In consultation with the police, the security agent will study risks at each location, implement appropriate security measures, monitor the origin of false alarms, and be responsible for marking currency and creating "boobytrapped" bundles to serve as evidence in future criminal proceedings.

Personnel training programs also demand further cooperation between police officers and bank employees. Bank personnel are required to familiarize themselves with existing security measures, are issued guidelines concerning behavior during a holdup, and are trained in methods of identifying the perpetrators and their weapons.

Finally, the cooperation between banks and police extended to the formation of a central information bank pooling relevant data to aid in the identification and arrest of criminals and the establishment of nationwide links between holdups. Resulting arrests numbered 374 out of 981 individuals apprehended in 1973, 334 out of 988 in 1974, and 305 out of 1,180 in 1975.

Conclusion

The signatories of the 1975 agreement wanted to avoid legislative or financial constraints which would have limited the necessary independence of banking institutions in their choice of investments and in their relations with their personnel; further,

the time-consuming elaboration of such constraints would have been incompatible with the constant and rapid evolution of banking crimes.

The members of the 1975 round table group met a year later in Paris to evaluate the implementation of their recommendations. It was noted that, while certain measures had produced positive results, others had not been properly met and executed. In particular, certain security devices had not been installed; e.g., electronically operated doors and cameras, antiholdup windows equipped with a protective screen which could be raised in nine-tenths of a second to isolate threatened tellers, and a tellers' room fitted with bulletproof glass and movable opaque curtains to be used in case of attack.

It was determined, however, that the cost of these devices was often prohibitive. One French bank estimated that it had lost 3,315,000 francs to holdups during the first 10 months of 1976, while its security equipment cost over 29,000,000 francs.

It is absolutely imperative that the banks continue their efforts at close cooperation with the police, the gendarmerie, and the Ministry of Interior. The French public will not tolerate a climate of insecurity which up until the present has been responsible for a great portion of the holdups and burglaries in the banking sector.

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Community Relations Officer--The Psychology of His Activities

Kontaktbeamte--Zur Psychologie seiner Taetigkeit* (NCJ 32653)

In 1955, modern traffic conditions necessitated a thorough revision in the West German police service: the police switched over to patrol cars. This had scarcely been carried through when the "other side of the coin" became apparent: direct contact with the people had been reduced to a minimum. Innovative restructuring became necessary to introduce police officers to the special task of community relations. Nordrhein-Westfalen, for example, in 1957 created the position of district officer. This concept was further developed during the 1960's when Dr. Schreiber of Munich introduced juvenile officers in the sense of a frontline service; this was very successful. Among others, the Bremen Youth Service also deserves mention.

Most recently, the concept of community relations officer has received new impetus. It was the anonymity of modern mass society as a sociopsychological background which motivated the authorities

* Translated from the German by Technassociates, Inc.

to introduce community relations officers under more diversified conditions. This happened most recently, for example, in Berlin and Mainz. Bremen is considering doubling their number.

All these matters have naturally instigated many service-related discussions, which have been reported elsewhere and will not be treated here; this article will consider the psychological aspects of this type of work. There is no doubt that this type of service requires continual support from a psychological standpoint. With this in mind, we interviewed colleagues from six cities, and their experiences are the basis of this report.

The Mentality of the District (Contact Area)

Modern metropolitan areas still contain sections that have developed naturally. People have lived in these districts for many years, and their degree of mutual acquaintance is very high. Whether it is an old miners' settlement, an urban quarter from the 1920's with its dwellings and shops, a city section with typical Bremen rowhouses, or even an incorporated suburb with its own tradition, numerous interpersonal connections are always present. Remnants of older traditions, as well as new clubs and interest groups, draw the citizens together. The community relations officer here encounters a mentality; i.e., a superpersonal structure, which expresses itself in common attitudes about behavioral modes, customs, and values (and even about the police). He must immerse himself in this mentality while maintaining a certain distance. Membership in local cultural clubs is advantageous, while membership

in interest groups would be harmful.

It is quite difficult to obtain an overview of most districts because of their heterogeneous composition. The most difficult service is in the "concrete towers" of modern satellite cities, in the new, artificially developed urban sections characterized by their inhabitants' anonymity and high mobility. A deeply embedded sense of community and self-inhibiting social morals seldom develop. Only with great difficulty does the officer find contacts in these "residential machines" that must have been built through a misguided concept of architecture. Mitscherlich's "inhospitality of our cities" is illustrated here. The objective of becoming known is attained only with difficulty, and never as satisfactorily as in the earlier urban sectors. In any case, the community relations officer should not be assigned for less than a 3-year period; he needs time to become familiar with and to make himself familiar to the citizens. Foreign "guest worker" ghettos and huge universities with residential blocks for thousands of students need special attention. These will be considered later.

Even though many "residential towers" cause problems because of the turnover of inhabitants, the community relations officer must at least attempt to secure points of reference; i.e., seek out trustworthy persons.

Initiating Interviews

In order for the community relations officer to obtain as diverse a picture as possible of his district, he must converse with

citizens of every age group and class. The introverted type of person (C.G. Jung, 1921) finds this more difficult than the extrovert. The former lives an inwardly directed life; the latter is essentially turned more toward the outer world. Among the uncertainties inherent in this or any other typology, this distinction still reflects something essential about interaction among human beings. Completely introverted officers would be less well suited for community relations than extroverts if there were no pedagogical possibility of correcting, leveling, and overcoming this reservedness. Training in the conduct of interviews may help to eliminate this unfavorable initial introversion, and with the reinforcement of the first successful experiences, this type of person also becomes capable of conducting an exchange of views with the public. The older officer can make good use of his experience from many years of service, although only to a limited extent, as intervening in criminal investigations would be essentially different from making a public contact. The introverted type is seldom in danger of becoming talkative and forgetting his goal of contact and eliciting information, except occasionally in the case of overcompensation (when a normally reserved individual becomes overly extroverted). On the other hand, it is necessary to correct the extrovert who, because of his ease in making contacts, is likely to forget the material goal.

Ascertaining the Facts in a Case

Community relations officers learn of many things through con-

versations with citizens on general topics and occasionally on topics which require more cautious treatment. Residents report rumors and make judgments about other residents, sometimes solely out of curiosity, but also in a prejudicial, envious, or resentful manner. They describe events in such a way that reality, speculation, and completely unfounded observations are intermingled. As such speculative material is found along with accurate, realistic, factual reports of the residents, ascertaining the true facts in a case may become a problem.

Listening to the facts of a case is not just an acoustic process. The words of the citizens arouse expectations in the listener. As these expectations build, an assessment of the communication immediately begins. The officer may first perceive (perceptual certainty) and then rationally confirm that a certain communication is based, for example, on envy. "Of course, I get to hear a lot of harping and carping," observes one officer. Here, ascertainment of motive has already begun. Psychology confirms and explains the professional experience of the officer that not only a sense of justice and an awareness of civic duty, but also drives such as envy and hostility related to a status conflict, may be motivations of citizens' communications to trusted police officers.

One of the great services of the Swiss Hans Walder to criminal psychology, and one of lasting value, is his explanation and analysis of suspicion in the publication "Kriminalistiches Denken" (Criminalistic Thought). This daily phenomenon is far too seldom

a matter for reflection among the police; we must always contrast suspicion based on facts with suspicion originating in uncontrolled and unconscious feelings. It should be clear to the community relations officer that the latter also occurs, but his independence must be maintained at the same time.

Observing New Situations and New Crimes

The community relations officer is not seeking experiences to confirm or rediscover what he already knows, rather, he is to observe and be open to new developments. As a result of his daily contact with the life of the community, he can be the first to notice changes.

He may, for example,

- discover a new gathering place in the city for uprooted rural youths;
- observe that a previously well-directed juvenile home suddenly "goes to pieces" because the new managing director adheres to utopian-radical ideas;
- ascertain the growing number of commuters who can be reached in their homes only after 7 p.m.;
- study the new behavior patterns of foreign "guest workers" who have lost their jobs;
- take care to visit trouble spots during a free hour or off-duty time;
- notice not only the children of "guest workers," who present problems now and will continue to do so in

the future, but also the well-integrated children of "guest workers" who, after a regular school career, may provide interpreting services.

He may also confirm the increase in types of crime among 13-year-olds, or observe changing conditions in small bars.

The community relations officer avoids everything that would make him seem a busybody, but his "scouting" work exposes him to the situations, like those listed, where he is the first to notice new developments.

Special Understanding of Adolescent Behavior

If the community relations officer is between 45 and 55 years of age, there is necessarily a generation gap in relation to the 13- to 19-year-olds who "hang out" during the evening in his district. The community relations officer must know that two components enter into play in general assessments of adolescent behavior: (1) puberty; and (2) differences in lifestyle (i.e., adolescents of 1976 behave, speak, think, and feel differently from the adolescents of 1966, 1956, 1946, or 1936).

Every older police officer knows the problems which may result, but the community relations officer would be especially foolish if, because of the above-mentioned differences, he achieved no relationship with the well-adjusted section of the adolescent community. There is no better proof of the successful relationship of mutual trust than some youths' admission: "Our patrolman is really together." Along with our colleagues in Munich, we must

differentiate well-adjusted, problem, endangered, and criminal adolescents. It would be unwise to make enemies of healthy, well-adjusted youths. Police must not interact with them in an ironic, disparaging, old-fashioned, unsympathetic, hysterical, or anxiety-provoking manner, but must attempt to understand, explain, show reason, help, and advise (never aggressively).

In this way, we make the adolescents our friends. First of all, behavior toward children must be, without exception, psychologically correct. In 1952, a work of an author in Hiltruper opposed the practice of making the patrolman a "bogeyman" as in the time of Kaiser Wilhelm. In 1956, this demand was repeated in the journal, "Polizei und Kind--Kind und Polizei" (Police and Child--Child and Police). Today when mothers still threaten their disobedient children during encounters on the street with the patrolman and use such words as "lock up," "hole," "chain," and "darkness," which are considered so very damaging psychologically, the officer must speak decisively in his own defense: "Ma'am, that is not why I am here. Please explain calmly to your child what he is doing wrong"; and to the child: "Listen to what your mother says! You don't have to be afraid of me. I'm your friend on the street."

The Community Relations Officer as Helper

Where the community relations officer has spread trust, he is often approached for help, particularly by older citizens. He duly sacrifices a minute in explaining petitions, insurance forms,

and tax reduction applications or in giving instructions on legal recourse available. In spite of all efforts at linguistic reform, legal terminology is still quite foreign to the "man on the street." Senior citizens are in greater need of another kind of help; for several reasons, an exaggerated fear has developed regarding going out in the streets at night. The mass media are partly to blame for this fear because they continually publicize sensational events, while political remarks are also partially responsible. The consequences for the elderly are more serious than can be easily indicated. There are undeniable psychosomatic connections which may become pathological as a result of fear. Here it is important that the community relations officer speak calmly, unpolemically, and informatively with the elderly citizens. We cite an example: The downtown press published the headline "Elderly Woman Horribly Mutilated." Just for the sake of a headline...but where did it happen? In Los Angeles, 8,000 km away. "In our city we have nothing of the sort," assured the officer. "You will get safely home from your Senior Citizen afternoon get-together, even if it lasts longer than usual." Thus the community relations officer can inspire confidence and trust. This is also, like the work of the community relations officer in general, "citizen service in practice."

Measurement, Evaluation, and Improvement

Even though the assessment of a police officer's work is not generally as easy as assessment of a material product, it is even more problematic in the case of a community relations officer.

Consequently, no easy evaluation is possible. In the service professions, all measurement procedures can lead one astray. The community relations officer needs the trust of his superiors: they should offer it, and he must justify their trust in him.

Both third-party and self-criticism are necessary to evaluate the community relations officer. This happens during training as well as in continuing education. From a methodological standpoint, the classroom lecture dominates, but group interaction must not be neglected. The goal of both is to encourage certain behavioral changes through insight when the officer's approach is not yet appropriate to a given situation.

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Juvenile Protection Unit of the Paris Police Headquarters

La brigade de protection des mineurs de la préfecture de police* (NCJ 41989)

The Juvenile Protection Unit of Paris was reorganized at the beginning of 1976. Headed by a general inspector, this service, which is under the direction of the judicial police of Paris Headquarters, includes three sections, each under the responsibility of a principal police chief or a police commissioner.

- General Investigation Section -- The female inspectors of this section are in charge of detection of minors at physical and moral risk and submit their reports to the juvenile courts and to juvenile judges. They also are entrusted with social investigations concerning adoption of legitimate children and delegation or relinquishment of parental rights.

Male inspectors of this section search for runaway minors or those who have left their jobs; they enforce rulings of juvenile judges.

- Penal Investigation Section -- Male and female inspectors

*Translated from the French by Technassociates, Inc.

of this section, mostly judiciary police officers, establish judicial procedures pertaining to abuse or neglect, rape and moral offenses, child abandonment, nonrepresentation of children, and generally, all crimes and misdemeanors of which children are victims.

- Prevention Section -- The mission of this section is to seek out, observe, and, if possible, handle predelinquent cases. It would be of interest to describe this experiment in detail, relating the structure, work methods, and results obtained by these teams of male and female inspectors.

The Paris police headquarters is increasingly employing preventive action aimed at reducing juvenile delinquency. During 1976, the Juvenile Protection Unit of the Paris headquarters established prevention teams and placed them throughout the city.

The mission of the prevention teams is to discover predelinquent cases, observe them, and seek concrete solutions. They seek minors who show signs of social maladjustment and are therefore vulnerable to delinquency. Police intervention consists of putting a stop to this process at the exact moment when nothing serious has happened as yet and is limited to individual and temporary actions, thus excluding all prolonged contact with and all extended control of the minor. To avoid overlapping of types of police services and the confusion that may result, it must be made clear that suppression of juvenile delinquency is not within the competence of the prevention teams.

What is described here is an extraordinary experiment. Although rather recent, its beginnings appear promising.

How the Prevention Teams Function

Paris is divided into three large sectors: North, South, and West. Posted in each sector is a group of a dozen inspectors commanded by a divisional inspector. The inspectors, male and female, work in teams of two or three in each "arrondissement" (borough).

The teams maintain contact with persons who are interested in minors and who may be familiar with their problems: school principals, teachers, social workers, school assistants, directors and supervisors of department stores, housing project guards, and local police. Their aim is to obtain information concerning minors whose behavior indicates they are probably on the way to predelinquency.

Toward the same end, surveillance is maintained over school grounds, housing projects, liquor stores, squares, stores, motion picture theaters, and carnivals. This surveillance of streets and public places is always conducted in a spirit of individual prevention. To avoid an ambiguous situation, police do not identify themselves at the outset. Initial contact is made with the young predelinquent and with his family. The family environment within which the child is developing is studied carefully.

In general, two types of situations may arise. The process of maladaptation may be merely beginning: school absenteeism, aggressiveness, keeping bad company, and occasional petty theft. The solution is within the direct reach of the prevention team. Police officials are not content with issuing admonitions; they

counsel, aid, and persuade. They may also take measures to aid the minor and his family.

On the other hand, the situation may have deteriorated, and predelinquency may be very pronounced. In this case, a detailed report is submitted to the juvenile court so that the juvenile judge may become familiar with the case. If a minor whose case already is being followed by a magistrate is involved, the latter is informed of the situation. For the purpose of coordination, contact is made with the educator responsible for execution of the prescribed educational assistance.

The occasionally painful examples that follow are taken from life; they are excerpts from reports made following interventions of preventive teams and enable the reader to concretely perceive the real difficulties of minors and to understand the role of the police charged with smoothing out these difficulties.

Keeping bad company. In the course of its attempts at detection, one of the preventive teams noticed an open carnival in a notorious quarter of the capital. Prostitutes and homosexuals sauntered about constantly. Scattered among them were young boys, one of whom seemed to be around 10 years old. When a dialog was initiated, the child was found to be a truant. The inspectors of the preventive team took him home, met with his parents, and confronted them with their responsibility; subsequently, school control was established until the young boy resumed normal school attendance.

A 10-year-old minor, Brigitte D., was encountered wandering

aimlessly in the street by police at one o'clock in the morning. She had just left home to take a walk. The investigation established that the young girl was suffering from a real lack of affection and was deprived of a normal family atmosphere at home. Her parents were separated, and the mother was living with a stranger whom the child rejected. Furthermore, the mother worked at night and could not watch over her. This disturbed child was having difficulty with schoolwork, leading her to seek bad company. Intervention enabled the mother to get a daytime job and to recognize her responsibilities. With improvement in the family climate, the mother-daughter relationship was stabilized, and the child no longer had the need to seek doubtful company outside the home.

Mrs. T. reported that her daughter Frédérique, 14 years old, disappeared from home for days and nights at a time. She was unable to convince her daughter to change her lifestyle. She learned through friends that her daughter had been seen in the subway in the company of a hippie who was playing a guitar. The prevention team confronted the minor in the corridors of the Montparnasse subway station. Brought back to the service, the young girl agreed to return to live with her mother and to resume her studies. Her adult friend, with whom she frequented notorious places, was summoned to court.

Truancy. It has been found that, in general, too many children are repeatedly absent from school (12 percent of the cases encountered) with the result that, being idle, they become socially maladjusted. A detection effort was carried out to handle these

cases of school absenteeism.

September 1976: in one of the lanes of a square of the Saint-Lambert quarter, Pierre M., a young boy of 14, riding top speed on a bicycle, was amusing himself by "bearing down" on pedestrians. He was confronted by the team. The bicycle was a stolen one. When taken home, the child appeared nervous and angry; he lived in a hovel with his garbage collector father who did not have time to look after him. The young boy had not attended the boarding school in which he was enrolled since September of the 1975 school year. Persuaded to return to the establishment, he thereafter followed a normal school pattern.

Ten o'clock in the morning: an abandoned schoolbook carrying case led to the discovery, a few steps away, of young Jean-Marc, 7 years old, sitting on the ground preoccupied in play. His situation was catastrophic; since the separation of his parents, the young boy had lived with his little sister and his mother in a dirty, smelly apartment. His mother worked all day in a bank and to outward appearances, led a very free life. Jean-Marc, very disturbed emotionally, was poorly adapted to the school environment. With the consent of his father, who lived in Lyon for business reasons, the responsibility for young Jean-Marc was assumed by specialized services who were authorized to supply him educational assistance as demanded by the juvenile judge.

Marie, 6 years old, was absent from class regularly and then disappeared completely from school several months later. Investigation established that the child left home in the company of her

mother for an unknown destination. Actually, both had been wandering aimlessly in the district, taking refuge from time to time in a hotel at nightfall. They were found in a partially demolished building, living on public charity. The mother was persuaded to return home with her daughter. Since then, through the aid provided by the social assistant who assumed the case from the prevention team, family life has returned to normal. The child has attended school quite regularly.

Theft. Minors frequently steal from stores, especially supermarkets. The management of one of these establishments made it a policy to demand only the return of stolen objects to end the matter. To remedy this type of infraction, these minors were studied in an attempt to devise dissuasive actions.

The manager of a large store telephoned to report the theft of a handbag by a 14-year-old minor who appeared disturbed and threatened suicide. In a back room of the supermarket, a very young girl was on the verge of a nervous breakdown; she refused to identify herself and persisted in her threat. Once she began to talk to the officers, however, young Maria became calm and led the police to her home, where they found a veritable drama. Maria, who had a spine deformation, had come alone to Paris from her family home in Portugal for an operation. Her aunt, with whom she lived, was without funds and did not know how to deal with this moral and financial burden. Maria was referred immediately to the hospital services authorized to care for her.

Drugs. Social maladjustment is sometimes connected with the

drug problem, which claims many young people as victims. In certain cases there are positive solutions.

For example, a young man of 17, Xavier B., was picked up in the middle of the night by passers-by in a street in the 17th arrondissement and taken to the hospital in a coma. Lacking his usual supply of hashish, he had taken prescription drugs as a substitute. The investigation established that for several months this boy had been seeing an older person in her forties. This woman, a mother, would meet young people in neighborhood cafes and bring them to her place to take hashish. After extensive interviews, young Xavier agreed to undergo treatment. His caring family assumed responsibility for him. Xavier was able to break away from the older woman's influence, stopped keeping company with "the gang," and began applying himself successfully to his studies.

The school racket. The school racket is a form of violent extortion perpetrated by individual youths or groups that has become fairly widespread in recent times. The principal of an elementary school in the 3rd arrondissement reported that several of his pupils frequently were assaulted by one of their fellow pupils when leaving class. The latter demanded money on the threat of hitting them. The prevention team identified the racket perpetrator as young Eric T., 13 years old, the eldest of 6 children. Although his family atmosphere was deprived, his parents did accompany Eric to his victims' homes to make him return the money. They also apologized to the principal for their son's behavior.

It would never have occurred to them to meet the principal prior to this incident. The prevention team's intervention had enabled Eric's parents to exercise more authority in bringing up their children.

Mme C., a mother, described her fears: her 17-year-old daughter Véronique, harrassed by her drug addict former lover, was in danger of again coming under his influence and using drugs. In a determined effort to escape the damaging effects of drug use, Véronique asked the prevention team to help her. As a result she applied herself to her studies and graduated from high school.

Statistics and Conclusions

For the prevention teams, 1976 was a year of research and adaptation for their unprecedented undertaking. It was not until the final quarter of the year that the teams were able to demonstrate their capabilities. The results for one team which has been operating since February 1976 in the 14th and 15th arrondissements follow:

- Total cases: 392
  Cases handled by the service 329 (80 percent)
  Cases referred to the juvenile court 63 (20 percent)
- Classification by type of case:
  Minors at physical or moral risk,
  rebellion against the family, drugs 118
  Aggressiveness in gangs, assaults,

Rackets	71
Theft	147
School Absenteeism	48
Leading astray by third party	8

- Classification of cases by origin of referral

Police service	66
Juvenile court	8
Coordination with social service	15
Education	90
Stores	124
Individual Initiative	50
Third party	39

The age of minors involved in this activity appears to correspond to the ranges often reported in criminological studies.

- Classification by age of minors involved

under 10 years	47
10 to 14 years	128
14 to 16 years	121
16 to 18 years	96

The two other prevention teams were formed later. Their 1976 results follow:

- Total cases 605

Cases handled by the service	517
Cases referred to juvenile court	88

In conclusion, it should be emphasized that prevention team inspectors are well received by the great majority of families.

These parents often perceive them as representing an authority that they have lost. Although it is premature to draw definitive conclusions from this quite recent experiment, the results are very encouraging. For example, none of the youths guilty of petty theft has been caught red-handed in a new offense since the creation of the prevention teams. It is important to underscore the fact that, in all of the cases encountered, 87 percent of the minors involved were not previously known to the police, the judicial services, or the services of administrative protection. This fact establishes proof that specialized prevention teams did fulfill their role successfully by intervening when predelinquency had reached the point of alarm but before it had passed the point of no return.

From Liaisons, n. 231:12-18. May-June 1977. Special issue on youth. Published by the Préfecture de police, 9, boulevard du Palais, 75195 Paris R.P.

The Police Officer and the Juvenile Problem

Le policier face au problème des jeunes* (NCJ 41991)

When a prevention policy is intensified and progressively influences the different aspects of police work, the police officer inevitably questions himself on the motivations of this action and on the role which he must consequently play.

Repressive formulas for combating juvenile delinquency have proved inefficacious in the majority of cases. Although these measures certainly bring an abrupt halt to delinquency, they often turn a primary delinquent into a recidivist and a maladapted minor into an outcast.

Prevention is not just a generous humanitarian and utopian idea. It is in the best interest of society to cooperate in prevention even if only through an economic plan. From this point of view, prevention is a policy which presents the double advantage of stopping misdemeanors (and, therefore, avoiding the damage they cause) and of eliminating the establishment and maintenance

* Translated from the French by Technassociates, Inc.

of the infrastructure necessary to execute coercive and reeducational tasks.

One might say that preventive action, however necessary, is not the business of the police, that the police officer is not trained in this type of intervention, and that his role is tied solely to the maintenance of order and the protection of persons and property. But the police officer, intimately involved in relations between the individual and society, is obliged to understand the entire criminal phenomenon and to consider the causes of delinquency. Only then will he be able to determine which components of the environment might contribute to the delinquency phenomenon.

From all evidence, it is the public security police officer who has a close and natural contact with the population and who, by virtue of his position, is inclined to intervene on the street and in public places as well as in the family itself for such diverse reasons as accidents, disagreements, and disturbances of the peace.

This police officer is in permanent liaison with all public and private organizations, notably those concerned with the problem of the young: members of the judiciary, health and social services, education, and prevention organizations. Thus, as a privileged observer of the social milieu, always the first alerted, and as a representative of both the administrative police and the judiciary police, the public security police officer is in a perfect position to prevent juvenile delinquency.

Principles of Public Security Action

The specific activity of public security is exercised in the framework of the following texts: (1) ordinance of February 2, 1945; (2) ordinance of September 1, 1945; (3) law of May 24, 1951, on the children's judge; and (4) ordinance of December 23, 1958, on the protection of children and adolescents at risk, modified by the law of June 4 on parental authority. These texts affirm the principle of educational assistance for minors who are delinquent or at physical or moral risk, with their socialization the ultimate goal. Thus, the police officer must intervene on three levels: prevention, protection, and suppression.

Prevention may be general or individual. General prevention encompasses surveillance of the street and of housing developments; detection of school truants and runaways; and control of bookstores (forbidden publications), movie theaters, public places, and liquor stores and bars, with attention directed toward marginal groups, gangs, crowds, young migrants, etc.

Thus, for the year 1976, the following have been checked in urban zones in France (not including Paris): 7,596 establishments displaying publications dangerous for youth, 6,414 movie theaters, 2,583 other establishments and theaters, and 67,923 liquor stores and taverns. As a result of these observations, the following changes occurred: 138 establishments have been closed by administrative action, 13,855 runaways have been discovered out of the 26,574 reported, and 10,866 of them have returned voluntarily.

Surveillance and individual observations are effected in the

war against drugs through constant liaison with the judiciary police and the central narcotics office.

Individual prevention is complementary to and originates from general prevention. It is also a daily reality: the city police stations are often aware of many social problems based on alcoholism, mental illness, and family difficulties, while the specialized police have to treat cases of runaway minors or those having material difficulties (lodging, work).

In the framework of these preventive actions, police officers maintain relations with numerous public and private bodies which also deal with problems of youth, such as officials in education, health and social services, and youth and sports; social assistants; and educators.

In "mistreatment" and morals offense cases in which minors are the victims of adults and in which contact is often difficult to establish, youths are systematically reassured, and the always painful confrontations are either conducted with tact or avoided entirely. The possibility of a protective measure, if there is reason for it, is examined, but always with concern for prevention.

The term "suppressive" actually means preventive. In effect, the earliest possible intervention, before behavior escalates to commit other offenses, is in itself a form of prevention. Covering all the misdemeanors committed by minors, as well as incidents involving both adults and minors when the interests of the minors demand it, suppressive action is preoccupied with the personality of the minor, which is often the determining factor whether for a

first offender or a multirecidivist. An attempt at social reintegration remains the desired objective.

Policing minors is the concern of all. All police officers are involved in detection, a prime task of the police. The specificity of this problem demands the attention of specialists, volunteer officials, chosen because of their interest in youth and because of their solid professional and moral qualities.

In order to be effective, this specialized action is carried out at the level of each police division or district. Under the responsibility of the chief of service and relying on preventive and detective action of all personnel, one or more plainclothes specialized officials "listen in on" youths in order to treat juvenile delinquency from a preventive angle.

The great mobility of youths, enhanced by modern means of travel and the incessant evolutional character of their problems, makes it essential that at the departmental level, a commissioner, division inspector, supervisor, or inspector (depending on the size of the urban population) centralize the information and insure coordination between local teams, as well as of all ties with the administrative and judiciary authorities and with the various private organizations concerned.

Survey of Public Security Activities

The public security police, in trying to adapt to the problems posed by juvenile delinquency today, are following the lead of the judiciary which created a "children's" judge in 1945. In 1953,

ministerial instructions, responding to the state of affairs, recommended that officials in several large cities be specialized. In 1955 this measure was extended to all divisions of police, and action favoring minors, at first limited to prevention and protection, was entrusted to a few guardians of the peace. More qualified personnel, such as inspectors, were included later. In 1959 new instructions placed equal emphasis on the protection of children and the battle against juvenile delinquency and insisted that high quality officials carry out this mission.

The first juvenile unit was formed in Toulouse in 1952 and, by 1968, there were 54 divisions with a juvenile unit, a total of 329 specialized officials and 267 other divisions having equally specialized officials, often working part-time. In 1969, preventive and social protection units were established in each division. In 1971 the departmental juvenile unit was created in the department of Yvelines as an experiment in rationing out tasks in a very urbanized setting.

Many innovations have been added to the considerable activity of these units: (1) sensitization and information on the problems of youth through courses organized at the center of research and training of supervised education at Vaucresson; (2) since 1967, direct intervention with the public during fairs and expositions (seven fairs and the Childhood Show in 1970); (3) conferences in the schools; and (4) since 1970, organization of study days at the departmental level for all representatives of the organizations concerned with youth.

Since 1960, each year "operation vacation" covers the months of July and August. Among the problems which the massive summer migration of the population creates, those of youth, often left to themselves, are the most acute. To ease these problems, the Ministry of the Interior's public security office conceived an arrangement in 1964 designed to reinforce certain divisions with juvenile units. To prevent juvenile delinquency, particularly facilitated by the vacation atmosphere, innovative leisure centers for youth were also created.

The seasonal juvenile units composed of noncommissioned officers and guardians of the peace receive training specifically for this purpose. Their mission consists, in liaison with the officials of the reinforced divisions, of detecting situations conducive to crime (e.g., running away and preprostitution), with the goal of supplying material aid in the form of shelter, food, and temporary employment.

The leisure centers for youth strive to reach at least a certain percentage of elements of concern by combating unemployment through the offer of diverse sports activities. The officials of these centers, noncommissioned officers and guardians of the peace chosen from the athletic instructors of the national police (public security), have been trained previously in leadership and motivation techniques and hold state licenses as day leisure center directors issued by the Secretary of State for youth and sports.

In 1969, the necessity of vigorous action against narcotics

traffic and use became apparent. Therefore, groups of specialized officials were created in each large division. Later, annual programs treating medical, judicial, and practical policing aspects of the problem were instituted for commissioners and inspectors. In 1972, a practical guide was published especially for use by nonspecialized police officers in order to fight this critical problem in a better way.

New Public Security Activities

On February 10, 1975, the Minister of State created a unit of criminal prevention, regrouping all the services which participate in the prevention of juvenile delinquency to better coordinate their activities. The unit consists of all the directors of the national police, the director of the national gendarmerie, and the chief of police. Its creation responds to the double objectives of improving the effectiveness of the programs initiated by the police and the gendarmes, and promoting the prevention of juvenile delinquency.

For the purpose of permitting this unit to stimulate action on the part of the various services interested, a permanent commission was likewise created for research and proposal-making. The designated members of this commission are representatives of the national police administrations (police personnel and schools, regulation-making, public security, judiciary police, general intelligence, air and border police, general inspection of services), of the national gendarmerie, and of police headquarters.

To date, this commission, presided over by the chief (central director of public security), has met nine times. As an outgrowth of these workshops, some proposals made in June 1975 have been accepted by the Minister of State. They cover the following four objectives: (1) to sensitize all officials of the police and the national gendarmerie to the advantage and necessity of the prevention of juvenile delinquency and to make them qualified to exercise the tasks of prevention; (2) to increase the concrete and precise acts of prevention; (3) to coordinate at the national and departmental level preventive actions conducted by the diverse services of the police and gendarmerie; and (4) to alert the public to the problems of juvenile delinquency and to make known the activity conducted by the police and gendarmerie services to prevent it.

It is important both to consider the entirety of police personnel and to address oneself most particularly to those who are, or will be, specialized in the tasks of prevention.

As of April 1976, a guide entitled "The Police Officer and Youth" is being given to all uniformed police officers. It indicates in a few simple formulas illustrated by drawings what their behavior should be in regard to youths.

Another increasingly important aspect involving all police personnel is basic training for police chiefs, peace officers, inspectors, and guardians of the peace in matters falling under the jurisdiction of juvenile police.

Since 1961, some sensitization and information courses for specialized personnel have been organized, in liaison with the Min-

ister of Justice, at the center of information and research of supervised education at Vaucresson (Hauts-de-Seine). To date, 450 commissions, 750 inspectors of all ranks, and 375 commandants and officers of the peace can improve their knowledge on the subject and be initiated into the constant preoccupations of practitioners working in neighboring and complementary disciplines.

Courses of practical training, organized in collaboration with the subdirector of training and designed only for specialized inspectors, are aimed at research of specific police techniques (i.e., practical ideas of child psychology, civil law, investigation, and procedure) with visits to service agencies for minors and centers of supervised education. The courses last a week; each admits 25 inspectors of all grades. Two took place in 1975 and three in 1976.

A text is being compiled which will give police officers specialized in the protection of minors all the information of an administrative, judicial, and procedural nature which they may need for the accomplishment of their mission. It will treat the integrity of these particular missions, trace their judicial framework, and define the role of the juvenile police officer, compared with that of the Public Prosecutor (district attorney) and the children's judge, in such areas as special jurisdictions for minors, legislation for children at risk, protection of minors in civil law, infractions committed against minors, and organizations concerned with the problem of minors. Two magistrates (substitute and children's judge), three officials of the corps of chiefs of police representing the administration of police personnel and schools, and officials of

police headquarters and of the central administration of public security participated in its preparation.

The receiving bureaus set up in some urban centers can be considered as privileged meeting places for youths and the police. The police services are not satisfied to wait for the youths: they go to meet youths in the schools and, more generally, wherever they gather or travel.

Existing solely in large urban centers where the problems of the young are particularly keen, these receiving bureaus are installed in pleasant locations, within or in close proximity to other police services. The police officers who work there maintain a close liaison with the other specialized elements and all of the officials of the local headquarters. Through their contacts with the administrations, public or private organizations, and social workers, they are able to help youths or families in difficulty by playing an active intermediary role between those needing help and the specialists capable of finding a solution. They cannot substitute for the latter. Tested and chosen on the basis of their particular qualities, these officials objectively inform the youths of the administrative, familial, or social difficulties they may encounter as well as on the possibilities of resolving them. They also facilitate steps to take and contacts.

Following creation of the Paris bureau in 1967, receiving bureaus have been opened in Lyon, Montpellier, Rouen, Clermont-Ferrand, Bordeaux, Grenoble, and Saint-Etienne. Others should be created without delay.

Through an agreement in principle with the Ministry of Education, high school students are sensitized to forms of delinquency in an extracurricular program using slides presented by juvenile police officials who have come at the express request of school administrators.

During public fairs and expositions, in Paris as well as in the provinces, juvenile police officers specially trained for this type of intervention present slides illustrating types of delinquency, including the dangers of drugs, hitchhiking, and running away.

"Open-door" operations attempt to open, for a day at least, the doors of the police headquarters to the public. Their essential goal is to familiarize the population with headquarters and with the police officers.

Created by the diligence of the local police service and concerning various subjects, including youth problems (e.g., drugs, violence), "roundtable" meetings seek the participation of qualified representatives of public as well as private organizations (national education, health and social services, family associations, etc.).

In 1976, total services provided by the urban police included 362 information activities in the high schools, 141 fair operations, 168 open door operations, and 347 round tables.

National coordination is currently assured by the criminal prevention unit and the permanent study commission on prevention.

The departmental councils of childhood protection quite nat-

urally should be the primary elements of departmental coordination. By a circular (no. 75-381) dated July 28, 1975, the Minister of State entrusted the chiefs of police with responsibility for the overall policy and dynamics of prevention already defined: creation of receiving bureaus, information in the schools, "Fairs and Expositions" operations, "Open Doors," "Round Tables," and "Young Motorcyclists." A joint service note addressed to the departmental directors of urban police specified the principles and forms of this preventive action. It established organizational rules governing departmental services of the juvenile police.

Conclusion

Police prevention of juvenile delinquency and social acts limits itself to specific tasks and is careful not to encroach on the activities of social workers, from which it is fundamentally distinct. Although its traditional mission is protection of persons and property, the juvenile police contributes to the battle against juvenile maladaptation and seeks to reduce it by means other than mere repressive action. It also represents a "state of mind" capable of modifying the behavior of police officers as well as that of the individuals under their jurisdiction. Through the orientation of specific activities outlined in its framework, through its concern for providing information to youths and their parents, and through openings it makes toward the profession of social work, it strives to humanize relations between the public and the police.

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Tasks and Practices of Court Presentence Investigators--Suggestions for the Further Development of Their Legal Functions

Aufgabe und Praxis der Gerichtshilfe, Vorschlaege zu ihrer weiteren gesetzlichen Ausgestaltung* (NCJ 36064)

By Dietrich Rahn

Basic Concept of Court Presentence Investigation

The function of court presentence investigation is defined in the Bundesrat (Federal Council) draft of the new version of Sections 160 and 463 of the Criminal Procedures: "Court presentence investigation is in keeping with the principles of modern criminal law and with developments in numerous other nations. Furthermore, the laws for reform of the criminal code require thorough investigation of the personality and background of the accused. Courts and public prosecutor's offices can only meet these requirements adequately if their decisions are based on a clear profile of the defendant. For this reason it is necessary to consult specially trained expert court presentence investigators who are officially recognized as social workers."

The rationale behind investigation of the defendant's personality rests not only on modern legal thinking but also on a strug-

* Translated from the German by Technassociates, Inc.

gle for justice.

The question of what justice actually is and whether it is achieved in court decisions naturally arises. Justice, according to Roman law, is the lasting desire to grant every man his rights. The principles of justice are to live with integrity, not to harm others, and to grant every man his due. The main focus is "to grant every man his due," which does not mean to grant the same to every man, but rather to grant every person what he deserves on the basis of his personality; i.e., his individual value. The individual value of the human being derives from his particular inclinations, characteristics, and capabilities.

For administration of criminal law, this means that decisions in criminal cases can be made only according to the aforementioned principles by studying the accused's personality, characteristics and capabilities, feelings and strengths, desires and goals, and experiences and deeds. Only then can one decide to which measures the defendant will respond and what sentence would best serve the interests of justice.

Often the state prosecutor and the judge have insufficient opportunities at their disposal to study the defendant's personality. Despite claims to the contrary, the necessary atmosphere is lacking in the main trial proceedings, as was clearly stated in the decision of the Cologne Provincial Court on January 10, 1967.

These facts give rise to a series of observations and requirements for professional practice and for legislation.

Current Questions From Professional Practice

Position and significance of the court presentence investigator. It is necessary to emphasize the very important role of the court presentence investigators in deciding the fate of the defendant because their duties have been misinterpreted in many quarters, as indicated by their low position and pay compared to other social workers in the individual West German Federal states.

The investigators are either given tasks which do not belong to their sphere of activity or are not assigned to prepare reports at all, even though their services are actually required. The reasons for this rejection vary and can all be refuted. The claim that using a presentence investigator might delay the case is false, for the investigator can examine the necessary documents and make a report between the indictment and the main proceedings without disrupting the process.

Those who favor the use of presentence investigators in pardon and execution proceedings but not in main hearings apparently believe that the investigators might hinder prosecution and punishment. However, the court presentence investigator is required to report all pertinent facts, whether favorable or unfavorable, and an investigator's report in the main hearings indicating negative aspects of the defendant's personality often leads to stricter treatment. In any case, no state prosecutor or judge should consider a case jeopardized by an accurate, complete picture of the personality and living situation of the accused.

In which cases should court presentence investigation be authorized? When to use a presentence investigator is largely a matter of experienced judgment. General guidelines are indicated in the draft of "Instructions for the Organization and Service of Court Presentence Investigation" adopted by the Advisory Council for Questions on Court Presentence Investigators of the German Association for Probation Assistance.

Although it is difficult to make firm rules about the use of presentence investigators, and each case must be decided individually, a general proviso, even if broadly interpreted, should be sought to establish a direction for such decisions. The following formulation could be used either in administrative regulations or in law: "Court presentence investigation will always be employed if the act or the perpetrator has characteristics which make it doubtful whether a just decision can be made without investigation of his personality and living situation."

The workload of the court presentence investigator. The investigator must have sufficient time to do a conscientious job if "assembly-line justice" is to be avoided. The main work involves discussions with the defendant, but interviews with the family are also an important source of information for which ample time should be allowed.

It is helpful to determine the number of cases per investigator because case work and employees cannot be distributed without recourse to statistics, although such figures never provide a clear picture of the real amount of work accomplished. The workload also

depends on factors such as the size and structure of the district, the kind of assignment, and the extent of office work required. Most official regulations call for a special adviser who promotes and coordinates the work of the presentence investigators; it is of utmost importance that the supervisors and the adviser monitor the workload and make necessary adjustments. This can frequently be accomplished without additional employees either by improving work conditions or by only making well-founded assignments.

The scope of court presentence investigation. The investigator provides the basis for the interrogation of the accused in the main court proceedings and for sentencing the defendant at later stages. Helpful report guidelines exist, but the presentence investigator need not follow them exactly, nor should he use them as a kind of questionnaire. The investigator should formulate his own questions, giving special attention to those principles of criminology which provide insight into the causes of criminal behavior and the structure of the criminal personality. It is essential that the investigator gather only accurate information because this will help to establish the right perspective on the defendant's life.

For example, there are various points of view about whether environment or inclination is the cause of criminal behavior. Although many people consider one or the other the primary factor, criminal etiology has made it clear that a number of factors always influence criminal behavior. In this context, it is important for the investigator to differentiate between environment at the time

of the crime and environment at the time when the criminal personality was formed.

Living conditions at home are clearly important for personality formation, but more specific observations must be made because a "good" or "bad" family life varies according to the individual and situation. Criminology has shown that health can also be a factor in behavior, as birth defects or later handicaps can have various consequences.

From the first, the investigator should cover all of the points which he considers significant in evaluating the defendant's personality from a criminological standpoint.

Questions on the formulation of the presentence report. Judges are not pleased when a court presentence investigator for adults expresses his opinion on possible sanctions in the form of a recommendation, although presentence investigators for juveniles are required to do so. In cases involving adults, however, the investigator's report must provide not only a picture of the present situation, but also a prognosis for the future. The investigator must also discuss the measures which the defendant can expect and the effect that these judgments would produce. Even if it is helpful for the judge and the state prosecutor to know these views, they still object when specific decisions are suggested because they consider such recommendations an infringement on their prerogative.

This problem can be resolved if the presentence investigator for adults makes no recommendations per se, but instead uses a form-

ulation such as the following: "If the court should consider probation as punishment, it can be said that such a measure would, in the eyes of the court investigator, achieve the desired effect on the perpetrator." The investigator can thus present an opinion without overstepping his authority and offending the judge.

Further Legal Definition

Court presentence investigation is only mentioned briefly in the law. Sections 160 and 463 of the Criminal Procedures only mention that the State Prosecutor's Office and the executory authorities can use investigators for the required information. Legislators thus assume the existence of such an institution without having made provision for its duties, activity, or function in the procedures. This omission must be remedied.

Juvenile court presentence investigation, which is comparable to court presentence investigation for adults, has been defined in numerous provisions of the juvenile court law. The duties and position of the probation officer in criminal law have also been outlined, but not those of the presentence investigator for adults. The most pressing considerations from the viewpoint of practice are discussed and proposed below.

Section 38, Paragraph 2 of the Juvenile Court Code contains a clear enumeration of the duties of the juvenile court presentence investigator. Paragraph 3 recommends at which stage and in which cases the investigator should be used. Comparable provisions for adult court presentence investigators should be included in the

criminal procedures. The proposed regulation should contain everything regarding legal procedures to be determined by law and should be included between Paragraphs 10 and 11 of the First Book of the Criminal Procedures entitled "General Provisions," as Paragraph 10 covers questioning of the accused, and Paragraph 11 deals with defense.

The duties of the adult court presentence investigator could be defined in the new regulation as follows: "The court presentence investigator for adults has the duty of investigating the personality and environment of the criminal at every stage of the process in order to facilitate a just decision."

If legislators care to determine when the use of such investigators is advisable, the following sentence could be added to the one above: "Court presentence investigation must always be used if the act or the perpetrator has characteristics which make it doubtful whether a just decision can be made without such an investigation."

Section 50, Paragraph 3 of the Juvenile Court Code prescribes that the representative of juvenile court presentence investigation must be advised of the time and place of the main proceedings. This statement attests to the special position of the investigator in juvenile court proceedings. Although the court presentence investigator for adults does not have such a position, he or she should be advised of the time and place of the main proceedings. It is very valuable for the investigator to view the main proceedings, in order to check whether the report and the picture presented

in the main proceedings correspond and whether the description was the basis for the decision reached. Moreover, for future reports in questions of pardon or execution, the investigator should be familiar with all the circumstances discussed in the main proceedings. For the sake of accurate reports, the description of the defendant and the facts substantiated in the main proceedings must be compared, an exercise essential for successful work and professional training. Administrative regulations are not sufficient to fill these requirements; therefore, legal provision must be made.

These suggestions do not cover all the desirable legal regulations but it would be unrealistic to make unreasonable demands of the legislators when changes in more pressing matters must be enacted as soon as possible. It is hoped that the legislators will act with speed. The purpose of court presentence investigators is to give human values their place in criminal proceedings to better serve the cause of justice.

From Bewaerhrungshilfe, v. 23, n. 2/3:134-144. April-July 1976. Published by Deutsche Bewaerhrungshilfe, Friedrich-Ebert-Strasse 118, 5300 Bonn-Bad Godesburg, West Germany. Report on the occasion of the 50th anniversary of the Hamburg Probation Assistance on April 9, 1976.

Semiliberty and Semidetention in Swiss Penal Law

La semi-liberté et la semi-détention dans l'exécution des peines en droit suisse* (NCJ 38001)

By Andrea Baechtold

As one could not possibly begin to examine all of the governmental provisions relating to semiliberty and semidetention, this discussion will be limited to several specific problems of their administration.

Retrospective Analysis

The expressions "semiliberty" and "semidetention" are not used in the Swiss penal code. It is worthwhile, however, to study the development of the particular articles which regulate these two penal measures.

In May 1955, the Commission of Experts for the revision of the Penal Code took under consideration a study conducted by the Federal Department of Justice and Police for the canton of Bern and the Swiss Association for Penitentiary Reform and Support. The study recommended that inmates close to release live in rooms

* Translated from the French by Deborah Sauvé of Aspen Systems Corporation, 1978.

containing up to four beds, intermediary establishments, or sections where they would be given more freedom. This proviso formed the basis of the notion of semiliberty. In 1967, the Council of States accepted a bill prepared by the Federal Council, article 37 of which contained the following clause: "If his behavior has been satisfactory, the inmate who has served at least half of his sentence and at least 10 years of a term of life imprisonment for a criminal offense may be placed either in an institution affording greater liberty to inmates near release or in a special section of a penitentiary." The National Council, on the other hand, accepted a proposal submitted in May 1967 by the Subcommittee on Punishment and Penitentiary Administration of the Conference of Canton Directors of Justice and Police, according to which inmates may be employed outside the institution for as long as circumstances permit. This divergence of opinion was resolved when the Council of the States accepted the text approved by the National Council.

Semidetention is first mentioned in a May 1968 proposal of the Federal Department of Justice and Police which referred to favorable Belgian experiences with this penal measure. The National Council took up the issue in March 1969; the Council of States once again adopted the National Council's plan to avoid divergence.

During the legislative process, the only clear statements on the two measures concern the goals of their implementation. The fact that semiliberty was limited to inmates near release and was

to be carried out in "transitory homes" demonstrates that it was designed primarily to facilitate the inmate's reintegration into society. Semidetention, on the other hand, is based on the concept of avoiding the negative consequences of a total deprivation of freedom; the inmate lives in principle in a state of liberty, continues to work at his former job, earns a full salary, supports his family financially, etc.

Forms of Semiliberty According to the Penal Code

Semiliberty can be carried out in two forms which may be combined: in establishments or sections affording more freedom, or through work outside the institution. Although the aforementioned "establishments or sections" are not defined in the law or in the legislative proceedings, one can examine the provisions which relate to this concept and determine that semiliberty is designed to afford ever-increasing levels of freedom within the framework of the establishment. The inmate is confronted with the type of responsibility he will have to face after release; the transfer of responsibility is coordinated throughout the entire social system of the establishment (in the areas of administration, work, and leisure) and also in relation to the inmate's relations with the outside world (visits, furloughs, correspondence, disposal of money, etc.)

However, semiliberty is not a type of liberalization but a formulation of individual and partial goals aimed at reintegrating the inmate into society. As a single formal implementation of

semiliberty is not possible in such a regime, semiliberty can only be successfully undertaken in special sections organized independently from the regular institution.

The second form of semiliberty (i.e., work outside the institution) is not intended to include all work carried out by inmates. It is essential that the work performed outside the prison be conscientiously applied as a means of preparing the inmate for freedom and take place under normal conditions. Each canton must establish regulations which can serve as starting points for the development of individually tailored inmate programs.

Semidetention According to the Penal Code

The notion of semidetention evolved from a realization that short-term sentences present risks in the area of penitentiary policy; they exert little educative influence on the inmate while bringing about a rupture and a stigmatization. Semidetention attempts to safeguard important social relationships (e.g., employment or family ties) in order to avoid the effect of this rupture. While semiliberty requires a positive effort on the part of correctional personnel, semidetention calls for a passive attitude. This does not imply, however, that nothing is demanded of the inmate; he must be made aware of what is expected of him, what constitute the boundaries of semidetention, and what activities he may pursue. As opposed to semiliberty, preparation of the inmate's activities in semidetention is more important than are the

activities themselves.

Sentences Applicable to Semiliberty and Semidetention

According to articles 37 and 42 of the Penal Code, semiliberty is applicable to the sentences of "réclusion" (criminal penalty which involves the loss of civil rights and consists of depriving the offender of his liberty and subjecting him to work) and "emprisonnement" (correctional penalty of imprisonment for more than 2 months and up to 5 years or, in exceptional cases, up to 10 or 20 years). The two types of semiliberty (outside work and more freedom in special establishments) are not applicable to "peines d'arrêt" (short-term sentences served in district prisons) as covered in article 39 of the Penal Code.

According to article 397 of the Penal Code, semidetention is applicable both to "peines d'arrêt" and to "détention" (criminal penalty of detention). However, a recent decision of the Federal Court confused the issue by stating that inmates covered by articles 37 and 42 may benefit from both measures, while inmates covered by article 39 may only receive semiliberty. This seems to have been merely a clerical error on the part of the Federal Court.

Generally, semiliberty can be applied when the required minimum sentence has been served in the normal system. In addition, the inmate's good behavior in the institution must provide a favorable prognosis for placement in semiliberty. Because of the short-term nature of "peines d'arrêt," the criterion of improved

behavior cannot be used in such cases to evaluate inmates prior to semiliberty. Under articles 39 and 42 of the Penal Code, inmates are to be afforded semiliberty when their condition requires it and when circumstances justify it; i.e., the granting of semiliberty is to be the rule rather than the exception.

Thus, semiliberty can be considered neither a special system for the final phase of a correctional sentence nor an alternative equal to regular corrections. It is, in fact, a third stage of corrections, the first being confinement to a cell and the second work within the institutional community. Moreover, it may be imposed directly whenever serving a full sentence of confinement would cause major damage to the inmate.

In the case of short-term sentences, one must examine the inmate's personal, familial, and professional situation to determine (1) whether a normal sentence of confinement will mark the inmate in a negative manner; (2) whether the inmate will be able to follow the directives of semidetention or semiliberty; and (3) whether partial execution of the sentence will suffice to deter the inmate from committing new crimes.

Semiliberty for "peines d'arrêt" and semidetention constitute basic alternatives to the correctional system of progressive stages, as the process of inmate "advancement" over time cannot be applied to short-term sentences. Therefore, no promises are made to the inmate; instead, he risks losing the privilege of semidetention or semiliberty. This undoubtedly permits a greater degree of individualization in corrections.

Future Perspectives

On the basis of this examination, some principles may be drawn concerning the importance of semiliberty and semidetention for the development of the Swiss correctional system.

First, semiliberty and semidetention must not be underestimated. As the normal correctional restrictions on communication and participation are reduced to a minimum under these two measures, the negative effects of confinement are largely or at least partially eliminated. Semiliberty and semidetention should therefore be applied whenever conditions permit.

The opportunity to individualize and normalize corrections which is represented by the institution of semiliberty and semidetention means that corrections can be carried out in relation to a definite criminal policy rather than some mystical preconceptions about the meaning and goals of punishment.

One must also not underestimate semiliberty and semidetention. As they are special institutions in the "correctional arsenal," one must bear in mind that they can be applied only to a portion of all inmates. In this respect, the greater normalization and individualization are more important than the two special measures themselves. Everything hinges on their practical aspects and the usage made of them.

Moreover, one must not evaluate semiliberty and semidetention lightly. Relevant provisions in Federal law constitute merely one small formal element of their application. Semiliberty and semidetention are thus only one possibility offered to practitioners.

Their worth will depend essentially on imagination, flexibility, and willingness to take risks, as well as on the realities of institutional administration and personnel.

From Revue internationale de criminologie et de police technique, v. 29, n. 1:31-43. January-March 1976. Mailing address: Case postale 129, 1211 Geneva 4, Switzerland. Presentation to the General Assembly of the Swiss Association for Penitentiary Reform and Support, April 21-22, 1975, Geneva, Switzerland.

Penitentiary Furlough—A Bridge From Prison to Independent Life

Le congé pénitentiaire--un pont de la prison à la vie indépendente* (NCJ 44282)

By Norbert Paul Engel

Penal law was once characterized by vengeance and fear--the vengeance of society on the offender as reparation for his crime and the fear inspired in him to discourage any future offense. This concept of punishment has been only moderately successful in preventing recidivism. In the Federal Republic of Germany, for example, repeat offenders have for some time made up approximately two-thirds of the country's prison population. Efforts have been made during the last two decades, particularly in Scandinavia and The Netherlands, to develop new methods of punishment. The main thrust has been in facilitating the offender's transition from prison to independent life. The primary means of expiation will no longer be isolation; i.e., the traditional separation of the inmate from his family, his friends, and all normal activities.

* Translated from the French by Virginia Allison of Aspen Systems Corporation, 1978.

Preparing for Reintegration Into Society

This new concept was first designated as "penitentiary leave." This expression was misleading, however, as it did not describe the true situation. The term was later changed to the less vivid "penitentiary furlough," which can be taken in its literal sense. Inmates on penitentiary furlough remain in prison but are allowed to hold regular jobs outside the prison under completely normal working conditions. They are also permitted to visit their families, a privilege which helps to preserve their primary defense against the continuous and vicious cycle of offense to conviction to prison to new offense.

"Penitentiary furlough" was one of the main topics discussed at the Third Conference of Directors of Penitentiary Administration, held in Strasbourg in March 1977, with participants representing the 19 member States of the Council of Europe.

"It is our belief that we deter the average person from committing a crime by sending offenders to prison. But we don't really know whether this assumption is correct," declared Ole Ingstrup, director of the Kragskovhede Prison in Denmark, at the close of a study carried out within the scope of this conference. The purpose of the study was to determine whether allowing offenders to reenter society would cause fear among the public, and, if so, why.

The penitentiary furlough is generally subjected to the criticisms that its practice would reduce the force of sentences, undermine the correctional system from within, and furthermore, that it

represents a danger to public safety.

In reality, the study conducted in Denmark shows that sentences are not likely to be rendered ineffectual. In 1971, only 10 percent of all offenders were allowed outside the prison to work, take courses, finish their education or professional training, visit their families, or find a job and a place to live toward the end of their sentences. In 1974, the figure had risen to 47.6 percent of the inmate population.

A Very Restricted Freedom

Even though this figure may seem high, one must not forget that more than half of all inmates still serve their sentences entirely in prison. One must also compare the respective lengths of the penitentiary furlough and of the total time of incarceration. For example, someone who is sentenced to 5 months of imprisonment and serves this sentence in an open prison, such as those in Denmark, cannot even spend more than 9 percent of the length of his sentence outside of the prison. If he serves his sentence in a closed facility, the time that he may spend outside of the prison amounts to no more than 4 percent of the length of his imprisonment. Under these conditions, it is difficult to say that there has been a reduction in the force of the sentence.

Furthermore, there are fewer inmates who take advantage of the furlough to "skip off" than one would think. Opponents of the program say that a furloughed prisoner has no need to make an escape--he simply does not return to prison from his furlough.

Advocates of a strict system blame the government for encouraging inmates to escape, rather than confining them securely. However, the facts show this criticism to be unfounded.

No one is in a better position to settle this dispute than the police; they are the ones responsible for finding offenders and escaped prisoners. In Denmark, they have cooperated with the prison administration in determining the cases in which an inmate should be authorized to work outside of the prison, to visit his family, or to find a place to live in preparation for his release. As is brought out in the report presented at the Conference of the Council of Europe, the police have agreed with prison authorities in their decision to grant this privilege to an inmate in more than 90 percent of the cases.

The study conducted in 1975 by the Danish authorities showed that the relative liberty enjoyed by furloughed inmates does not lead to the excesses that some people fear. Only in 6.6 percent of the cases did the participants willfully abuse the privileges granted them. These returned to prison late or did not return at all; however, the police eventually found and rearrested them. Only 0.2 percent of the cases resulted in successful escapes. Concerning the danger which would be presented by inmates free to come and go as they pleased, the study showed that, for 100 inmates in the program, only one took advantage of this liberty to commit another crime. No homicides were committed.

The Responsibility for Damages Assumed by the State

Furthermore, any valuable objects or sums of money stolen by a furloughed inmate would represent such a small amount that the Conference of Directors of Penitentiary Administration of the Council of Europe even proposed that the State guarantee payment of damages caused outside the prison by furloughed inmates. The purpose of this proposal was to calm the population's fear of the inmates. Any furloughed inmate who committed a new offense would be held responsible for damages and required to make reparation. The State would advance the amount in order that the victims of these offenses be quickly repaid.

This is, without doubt, a judicious proposal. Actually, a State can make the greatest savings in allocations to the judicial system by successfully rehabilitating as many released inmates as possible and by effectively preventing them from committing new offenses. In a society which values individual responsibility, an inmate's realization of the role that he can play in society may act as a motivating force and replace the restraint imposed in past centuries by the fear of repression. Society must take charge by showing confidence in the inmate so that he can regain his place in the community at the end of a reasonable term.

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Carcere e Territorio * (NCJ 41891)

The Chair of Criminal Anthropology at the University of Modena, Italy, sponsored a conference in April 1975 at the Casa di lavoro (workhouse) of Castelfranco Emilia. Conference participants included social and correctional workers, magistrates, representatives of the economic, political, labor communities, and numerous citizens. Closer cooperation between the local network of social and professional assistance services and the correctional institutions, problems connected with deinstitutionalization in the Modena district, and the problems of opening penitentiary institutions to the outside and of community participation in the resocialization processes were discussed.

Although the Modena area has a rather restrained crime index, the problem revolves primarily around (1) alcoholism, especially in the mountain regions; (2) immigration; (3) drug addiction; and (4) culpable acts without criminal intent related

* Translated from the Italian by Deborah Sauvé of Aspen Systems Corporation, 1978.

to work injuries and traffic accidents. A program of preventive activity has been designed in the area of precautionary detention measures at such facilities as the Casa di lavoro of Saliceta S. Giuliano and the Colonia agricola (penal agricultural settlement) of Castelfranco Emilia. Since 1970, more than 500 inmates have benefited from the resocialization experiences with very satisfactory socioadaptive results and a low rate of recidivism; an average of 50-60 inmates daily are at liberty in the various local communities of Modena.

RESOCIALIZATION EXPERIENCES IN THE AREA OF PRECAUTIONARY DETENTION MEASURES AND PARTICIPATION ACTIVITIES IN MODENA *

The Director of Prevention and Penal Institutions of Modena, Giuseppe Zoppi, prefaced the opening of the meeting by commenting that the initiatives carried out in Modena generally have received the cooperation and collaboration of the populace, local institutions, employers, and employees. Any appreciable results are due to the receptiveness and character of the Emilian population and to the economic, social, and cultural realities of the region. Director Zoppi then turned this meeting over to its moderator, Francesco De Fazio, of the Chair of Criminal Anthropology at the University of Modena and Director of the Criminological Service.

Role of the Workhouse

Professor De Fazio defined the meeting's scope: to provide

*Proceedings of the April 7, 1975 meeting at Castelfranco Emilia.

a forum for the free exchange of opinions among persons who had contributed to the deinstitutionalization, albeit partial, of the Castelfranco Emilia and Saliceta S. Giuliano workhouses. He cautioned that extrainstitutional treatment, brought about through conversion of a detention regime into an alternative regime of treatment in liberty, was not to be regarded as a panacea or an absolute which would allow the abolition of prisons.

The Modena experience, according to Professor De Fazio, permits one to draw conclusions about: (1) the operative possibilities of the local citizens and institutions in the conversion of a model of "passive" social defense into a model for the prevention of dissocial and delinquent behavior; and (2) the true political willingness to open correctional institutions to the outside, beginning with sectors in which it is possible to effect diverse types of intervention (e.g., asylums for the criminally insane and institutions for juveniles, as well as workhouses).

Workhouses are institutions for precautionary detention of imputable adults who are usually veterans of long-term incarceration (i.e., multirecidivists). In principle, precautionary measures were to have been alternative methods of punishment; they had become, however, supplementary measures applied after regular detention. After 40 years, precautionary measures finally are being differentiated from punishment measures through the joint efforts of: (1) Modena magistrates, who have interpreted existing penitentiary regulations in a progressive manner; (2) the Penitentiary Administration, which started the work program

by creating the "Criminological Service for the Observation and Treatment of Those Subjected to Precautionary Detention Measures"; (3) the University of Modena, which collaborated on the jurisdictional and penitentiary programs by promoting and stimulating initiatives and furnishing personnel for psycho- and/or sociotherapy; and (4) the local communities, which responded to the program through cooperation and participation.

It is useful to clarify that the "treatment" does not consist solely in furnishing or helping the inmate to find a place to live or a job, but also in insuring that the work performed is the first step in the passage from detention to community adaptation, with all attendant implications in the areas of residence, personal relations, recreation, self-expression, etc. When the Criminological Service's interventions were moved from the interior of the prisons to the community, it assumed the role of liaison with the community for those inmates who carried the greatest stigma (e.g., "habitual criminal," "professional criminal," "menace to society," etc.).

Community Participation

The next speaker was Giuseppe Altavista, the General Director of Prevention and Penal Institutions (Ministry of Justice), who stated that the Modena experience showed that a response on the part of the social community is necessary in addition to specialized personnel. Now that the experimental program has been carried out successfully, the problem arises of extending

the experimentation; in Modena, there is a possibility of transforming the experimental work into routine work.

A major difficulty which must be overcome in opening the penal institutions to the outside is their location: they are so mistrusted that they are always set apart from the urban centers, in zones for which no development in the immediate future is planned. This demonstrates a certain mentality which must be corrected. Although there is a need for defending society from criminality, no valid program of social defense is possible without community participation.

The Director of Prisons and Judiciary Reform in Bologna, Giovanni Saba, raised the question of location: Is it more valid to reinsert and employ the inmate where he is held under precautionary detention, or to send him to his family or to a place of his own choosing?

Professor De Fazio responded that, although some juveniles and the mentally ill clients may benefit from the family atmosphere, adult delinquents, generally multirecidivists, who end up in workhouses, may not. The latter usually have few possibilities for resocialization in their communities of origin. In addition, experience has shown that better socioadaptive results are obtained in small communities, where interaction with free citizens is more effective and prolonged. For adult inmates under precautionary detention, therefore, smaller communities and locales other than communities of origin should be chosen as work assignments.

Inmates Participation

The next participant, Marta Andreoli, Assessor of the Provincial Administration of Modena, questioned the role of the inmate in deciding who may benefit from the freedom to leave prison. Professor De Fazio informed the meeting that the Supervising Judge makes this decision; the penitentiary directors, the Criminological Service, and social workers furnish him with information and opinions. No codified selection criteria exist, however, and no medicopsychological or psychoattitudinal selection parameters have been adopted.

Professor De Fazio then called on several inmates to speak about their experiences in the precautionary detention regime. Bruno Bottamini, who had been working in the community for 9 months, told of his initial difficulties adjusting to the relative freedom he was afforded, his feelings upon receiving his first paycheck, and his pride at accomplishing heavy work. He and his companions do not want to have to return to prison again and are displeased with the prospect of having their privileges withdrawn.

Director Altavista stated that a recent decision of the Constitutional Court gave the power of revocation to the Supervising Judge, who is in the best position to weigh the situation of each inmate under this regime.

Institutions in the Community

Vittorio Saltini, Assessor of the Provincial Administration

of Modena affirmed that the motivations and difficulties involved in transforming penal institutions are similar to those of psychiatric institutions, institutions for juveniles, and homes for the elderly; i.e., to overcome the isolated status and segregation of these institutions and to help the client achieve a real and effective social, vocational, and domestic recuperation. Appeals to the public in humanitarian terms are not enough; a true public commitment to the fight against all the causes of "emarginazione" (the state of being on the fringes of society) in all sectors from mental illness to deviance, including delinquency, is necessary.

Assessor Saltini pointed to the social-health consortium in Modena as an example of how local institutions can respond to community needs by coordinating and linking their services, regardless of who administers them. The Criminological Service can do the same; it would be absurd to keep inmate services separate, particularly when they have similar characteristics and move in the same basic direction.

Director Altavista responded that a tighter collaboration with the regions is planned, because the sanitary services for the Prevention and Penal Institutions are carried out by the same health organizations which serve the regional institutions.

Types of Detention

The discussion turned once more to the subject of direct intervention as the Director of the Modena Department of Mental

Health, Filiberto Vicini, stressed the distinction between pathological deviants, who are not confined in prisons because they require medical intervention, and nonpathological deviants, who need only social intervention. However, the same difficulties arise when attempting to reinsert both patients and inmates into society, especially during periods of economic crisis.

Director Vicini also brought up the need for law reform, particularly in reference to asylums for the criminally insane and patient guardianship. Professor De Fazio stated, however, that existing laws often prove adequate when interpreted in a different fashion. For example, the laws regulating precautionary detention measures were in existence for 40 years but were not applied until recently.

Director Altavista pointed out that, while precautionary detention measures are being applied in the same way as correctional measures, the Supervising Judge also has the possibility of using reward furloughs, furloughs for family reasons, and the so-called trial furlough.

A Successful Venture

Another inmate, Gregorio D'Avanzo, spoke of the inmates' conviction about the possibility of reentering society successfully and their willingness to do so. When he and the other inmates in his group entered the community to work, they met with citizen opposition and fear. Within 2 days, the Commune Council, the District Council, and several other organizations had met to try to

have the inmates returned to the workhouse. Mr. D'Avanzo went before the residents of the neighborhood in which the inmates were living and, after explaining the inmates' feelings about working in the community, asked for a 1-month trial period, during which the inmates and residents could get acquainted and the inmates could prove their good will. The residents agreed to this proposal.

The inmates were accepted by their factory coworkers because of their job performance. When the economic crisis began, however, a proposal was made to dismiss the elderly workers, pensioners, those over 60, and inmates. As a member of the factory council (elected by both inmate and noninmate workers), Mr. D'Avanzo fought the proposed dismissals and cited the workers' bylaws and national contract. He successfully demonstrated that the inmates could not be dismissed solely because they were inmates. Relations between the inmates and the community are now considered optimal; in fact, the inmates are often invited home to eat with their coworkers.

Problems in Deinstitutionalization

Salvatore Luberto, Assistant Director of the Modena Department of Mental Health and Psychiatrist for the Criminological Service, brought the discussion back to the subject of inmate selection for participation in extrainstitutional treatment. He asserted that the criteria should include the inmate's willingness to "participate" with the social workers in his own resocializa-

tion treatment and readiness to experiment in a new mode of behavior.

The question of disciplinary measures for inmates who violate the rules of community release was posed by Roberto De Robertis, Supervising Judge at the Modena Tribunal. In his opinion, the Supervising Judge should not take disciplinary action for minor infractions such as returning to the institution late because of circumstances beyond the inmate's control. If, on the other hand, the inmate has willfully violated the rules, the Supervising Judge has no choice but to place the inmate back in precautionary detention.

Judge De Robertis also spoke of the problems of the Supervising Judge in deciding what system is most suitable for the resocialization of a particular inmate, as no inmate personality profiles exist and there is no possibility of getting to know the inmate personally before judging him.

Administrators of penal institutions can help eliminate certain mentalities and social taboos, suggested Paolo Cristoni, an auditor in the commune of Castelfranco Emilia. Concerning local institutions, he called for decentralization of spheres of competence, decentralization of powers, and new legislation to permit intervention on the sociopolitical level about programing and on the economic level about given choices.

Mr. D'Avanzo interrupted to ask Mr. Cristoni about the possibilities of assistance other than moral support (e.g., financial assistance) for inmates, both in Castelfranco and in the entire

Modena province. Mr. Cristoni responded that, according to the policy lines espoused by the Provincial Assessor, Castelfranco and neighboring communities had arranged for intervention through a more direct and continuous relationship with the workhouse. The communes wish to make their services functional at any time they are requested.

In the words of Giuseppe Di Gennaro, Director of the Studies, Research, and Documentation Center of the Provincial Administration (Ministry of Justice), the Castelfranco Emilia experience constitutes an example of how it is possible to restore the individual's capacity and right of choice. The recognition of this choice is manifested in the Supervising Judge's decision to free the inmate. This decision, however, is also subject to the public's receptiveness to the idea, because the public attitude may cause the inmate's penal servitude to be prolonged.

According to Armando Bianchini, a volunteer, treatment must begin even before the inmate arrives at an institution such as Castelfranco Emilia; i.e., once the inmate is incarcerated in a normal prison. The criminological teams, social workers, and psychologists found at Saliceta S. Giuliano and Castelfranco Emilia should be available in all penitentiary institutions, especially considering that inmates who receive prison furloughs generally have had no preparation for reentering society.

Although Professor De Fazio agreed with Mr. Bianchini in principle, he also pointed out that such action was not possible under existing laws. He would, instead, reverse the equation:

up until the present, precautionary detention was like imprisonment, but now imprisonment should become like precautionary detention always was supposed to be. Professor De Fazio disputed Mr. Bianchini's contention that, if such intervention were not started at the beginning of punishment, it would not be valid to do so during precautionary detention; treatment of this kind is always useful to the inmates.

Director Altavista added that the problem of treatment during penal servitude is of great concern to penitentiary administrators; a penitentiary ordinance in the process of being approved would establish the principle of reeducative treatment with the intervention of specialized personnel. It would be possible, then, to develop the theme of treatment in all penitentiary institutions and to profit from the experiences of Castelfranco Emilia.

The question of local institutions' powers of intervention with ex-inmate citizens and citizens in general was raised by a member of the Assessor's Office of the Emilia-Romagna Social Services, Franca Gizzi. More specifically, she wished to know whether, under existing laws, institutional tasks would have to be performed in a reduced perspective of assistance instead of in a natural, programed vision of community services. If it is true that local institutions are assuming responsibility, then it is also true that they should be allowed to direct this process on their own, without being replaced by the Penitentiary Administration or the magistrates.

Director Altavista emphasized that the Administration is very

interested in such a collaboration with regional institutions and local institutions in general and called for a dialog between the penitentiary institutions and the regional institutions.

The final topic discussed was introduced by Claudia Zoboli, a social worker, who questioned the fate of homeless prison releasees. She described this as a political problem, and one which should be taken care of by the commune.

Director Altavista responded that the Penitentiary Administration has charge of the inmate up until his release from precautionary detention; after this point, however, the competence of the Penitentiary Administration does and should lessen. From that time, apart from postinstitutional treatment, the local authorities and various regional or provincial institutions must succeed the Penitentiary Administration in taking responsibility for the ex-inmate.

The meeting concluded with a statement that, although the problems are many, they can be solved through the provision of means and structures and through the will of individuals to work toward the betterment of society.

ROLE OF LOCAL INSTITUTIONS IN CRIMINOLOGICAL INTERVENTION

In an appendix to the conference proceedings, three levels of interaction between local institutions and penitentiary administrations and judicial authorities are outlined:

(1) progressive and systematic transfer of much of the social assistance, sociotherapeutic, and psychotherapeu-

tic functions of the penitentiary personnel to personnel of social services and mental health in the appropriate region;

(2) secondary and sometimes tertiary prevention effected by district social and health personnel with members of the inmates' nuclear families, particularly in terms of criminogenic factors; and

(3) integration of health assistance, mainly with regard to treatment of drug addicts, alcoholics, and the mentally ill, on the part of area health and hospital facilities in collaboration with penitentiary health services and with the observation and treatment teams which operate in penitentiary establishments.

The most productive and qualified spheres of collaboration between penitentiary institutions and local institutions are those phases immediately preceding and following deinstitutionalization. A plurality of interventions are needed in these most delicate stages of the reinsertion process. Once the idea that the community can exert a positive therapeutic effect on the inmate is accepted, a specific strategy must be articulated for an intervention program that involves all sectors of corrections.

Extensive references and a list of conference participants are appended to the Italian-language report.

By the Chair of Criminal Anthropology, Institute of Legal Medicine and Assurances of the University of Modena, Italy (Professor Franceso De Fazio, Director). Published by the Ufficio Stampa dell' Amministrazione Provinciale di Modena, Italy. Number 11 in the series "Studi e Documentazione." 67 p.

Probation and Parole—The Myth of Community Participation

Probation et libérations conditionelles: Le mythe de la participation communautaire* (NCJ 39432)

By Yves Léveillé, Michel Nicolas, and André Normandeau

Introduction

For a few years people have been speaking repeatedly about community participation in the correctional system, in particular in probation and parole. In fact, this theme of community participation appears to be rather like a myth, the opiate of the practitioner of justice who gloats over it, thus giving himself a good conscience. In practice, it often prevents him from immersing himself at the community level. This "facile facade" too often justifies serious professional deficiencies and a true incompetence in organizing a rational utilization of community resources.

The practitioner defends himself, however, by pretending, sometimes justly, that the average citizen "does not want to know anything" about the correctional system, especially in an open environment such as probation or parole, and that failure, consequently, must be attributed to the citizenry. If such were the

* Translated from the French by Deborah Sauvé of Aspen Systems Corporation, 1978.

case, there would be two more myths instead of only the one about community participation in the correctional field: the willingness of the practitioner to call on the community and the willingness of the public to participate in the "correctional business." In simple terms, it is correct to state that, as a general rule, neither the practitioner nor the public really wants the collaboration of the other.

Is this pessimistic vision justified? This question will be analyzed by examining three subthemes: (1) public opinion and participation, (2) hypothetical public participation, and (3) recent examples of experiences in community participation.

Public Opinion and Participation

The majority of reports of the multiple committees or commissions investigating penal justice for a decade arrive at a conclusion which has become a catchword, if not a cliche. In fact, all these reports preach in favor of the involvement of citizens and the community at the level of probation, parole, and community residential centers, as well as at the prison and inmate level.

Is the ordinary citizen ready to participate and get involved in the process of social reinsertion of the persons who are guilty of criminal offenses? On the basis of opinion polls on this subject, conducted most often for the committees or commissions mentioned above, the response is, unfortunately, negative.

It is known that the success of correctional measures is

closely tied to the understanding and the support of the public. It is sad to state, however, that the citizens, overall, are not tolerant toward the return of a criminal to the community. Professionals in the field of applied criminology have been greatly mistaken in thinking that the attitude of the public was becoming more and more favorable to the rehabilitation of criminals. The recent results of polls on the death penalty, indicating that three out of four Canadians favor capital punishment, are symbolic and significant.

General Attitudes Toward Correctional Measures

The results of surveys in the United States and in Canada indicate clearly that the public has the impression that society has not been capable up to now of controlling the crime problem effectively. The public is disappointed in the achievements of justice practitioners at the correctional level (i.e., probation, the prisons, and parole). This same public, however, in general is unwilling to pay higher taxes in order to improve the quality of correctional services.

A cynic might think that the basic problem of rehabilitation is the reinsertion and return of the criminal into the community. Surveys indicate that, even if the public is habitually conscious of the importance of this return, it is not as ready to receive the criminal as it should be. The average citizen hesitates and is very ill at ease in anticipating contacts with an ex-convict. In itself, this hesitation is perhaps inevitable, but it handicaps the process of rehabilitation in a strange way. The problem becomes

even more serious when one realizes that this hesitation is more marked among less educated and less socioeconomically favored social groups; many criminals come from these groups.

The resistance of the public to community-type correctional measures is also apparent in the fact that one person out of four (about 25 percent) favors a larger use of probation and that only one person out of five (about 20 percent) favors a larger use of parole. Concerning community residential centers, one person in three (about 33.3 percent) is in favor. The least that one can say is that the public is very reticent regarding correctional measures of the community type.

It seems evident that it is necessary to change both the system of penal justice, at least in part, to make it more effective and the opinions and attitudes of the public before the citizens can also contribute to a more humane penal system.

The polls indicate that the public is acquainted with the correctional system in a very limited way. The attitudes of the public on this subject are often based on prejudices rather than on reality. Many practitioners of justice have not taken seriously their responsibility to inform the public, although other public services have done so (for example in the fields of education or social and health services, which have succeeded in part in changing public attitudes detrimental to the realization of their program objectives).

A Problem of Public Education

It is certain that the correctional system, which is a public service, has not succeeded in transmitting to the public sufficient information on its objectives, its operations, its problems, and its successes. In order to realize its mission, the correctional system will have to continuously seek the support of the public, explain its objectives and its problems, take a real place among all the public services, and obtain a larger part of the state's financial resources in order to improve the quality and the quantity of its services.

If the services of probation, parole, and community residential centers want to obtain these financial resources, they would do well to remember that the taxpayers have a right to know the "why" and the "how" of expenditures for the services mentioned. In our opinion, an important part of the little interest of the public and of the legislators in supporting these services is due to the chronic incapacity of the correctional administrators to justify the investments made and to emphasize the successes obtained.

However, the support of the public must not show itself simply in a financial form. The correctional system will not attain its objectives unless citizens fully agree to assume real responsibility in the goal of reintegrating the criminal into the community. Because of a misdirected focus on the criminal personality, the practitioners of justice have perhaps too easily forgotten to make the public aware of the social conditions which are partly respon-

sible for criminality. One hardly needs to be a radical criminologist to recognize the necessity of correcting certain socio-economic inequalities through a social change oriented toward a more just distribution of the national wealth.

If the Canadians (including the Québecers) interest themselves too exclusively in the criminals and neglect the role of the social and economic environment, it is certain that the correctional system will go in circles and have only a mitigated success. A society really determined to reduce crime must undertake a "war" directed less against the criminals than against the conditions which account for this behavior. The practitioners of justice must not "hide their faces" and avoid confronting the public with larger policy perspectives than their immediate fields of action.

"And if the Public Participated..."

It is universally believed that in the effort to integrate convicts into society, society needs not only the support of the people in principle but also their material and active help. Yet it certainly seems that many people are content at the present time with passive help, with moral support and nothing more. In the authors' opinion, it would surely be an error to try to make the population accept only the existence of a system of probation, of parole, or even of community residential centers. It is necessary that citizens interested for one reason or another in the fate of convicts, inmates, or ex-inmates have the possibility of working

with professionals. We believe that those interested persons exist.

The success of correctional measures is tied to three-way participation: participation of the client, participation of the correctional representative or professional, and participation of the citizen-volunteer. Besides the "why" of citizen participation, certain questions exist which are still difficult to answer: "Who participates?" and "How will he participate?" Who participates? There is an underlying principle in citizen participation that concerns an entirely voluntary involvement on a basis of good will. Examples of citizens who could participate include a friend of a convict, of an ex-convict, of a parolee, or of a person on probation, a family member, even an ex-convict, and certain active members of a community, such as a bank manager or cashier, a grocer or a merchant. The volunteer could also be a housewife or a student. Immediately a question comes to mind regarding recruitment and selection. It is important to realize that people will usually not rush to your office to volunteer.

Recruitment is perhaps the most difficult stage and demands one essential prerequisite, that of the decentralization of the special agencies of probation and parole. An effort has already been made in this direction by the probation organization in the Montréal region. Decentralization does not suffice; it is also necessary at the very least that the practitioners get to know the persons or groups active in their region. Thus, they must meet bank managers and businessmen, attend certain church meetings or meetings of fraternal organizations, and speak to them about their

role, their organization, their program of participation and its objectives. Articles on these programs in regional or local newspapers could also be of interest to citizens.

Regarding selection, all the people who present themselves as volunteers will obviously not be suitable. It is absolutely necessary to choose valuable individuals by obtaining information on, for example, their employment, education, activities, leisure pursuits and interests, experience in a related field, and family history. It would probably be necessary to consider interviewing and perhaps administering psychological tests.

The first indispensable selection should be followed by a training program for the chosen volunteers. It would not involve courses in sociology, psychology, or criminology, but rather would include an initiation session on the objectives of the program, the roles of the participants, the community resources at its disposal, and discussions of problems and of concrete cases. This period of training could be followed by a second selection.

The problem of "who participates" is far from being resolved, insofar as it would be necessary to consider that the agent and the probationer or parolee should also participate. It would be necessary perhaps to choose certain agents or at least apportion certain tasks (e.g., recruitment, selection, training). But it certainly would be necessary to choose the persons on probation and parole who are in a position to benefit from the presence of the citizen.

How do citizens participate? The role of the volunteer is closely

tied to the needs of the probationer or the parolee. In certain cases, the young probationer or parolee needs certain examples (role models). At times, it is a case of finding a friend, of meeting him, of sharing common interests. On other occasions, a more tangible assistance is needed, and the citizen-volunteer could help the individual find a job, discover leisure activities other than frequenting clubs and taverns, or keep a family budget. Finally, the citizen-volunteer could help the parolee or probationer overcome problems of an emotional, marital, or family nature.

The professional agents should be able to evaluate the needs of the convict and the qualities of the volunteers in order to best unite the client and the citizen. A citizen should not look after several probationers or parolees at the same time. This training process will probably involve several phases. For example, a first phase could be a conference between the professional and the parolee or probationer, followed by a conference with the volunteer to arrange a schedule of initial meetings between the volunteer and the probationer or parolee.

There are many more questions and problems which arise when one thinks of setting up such programs. It should be emphasized that it is unthinkable to want to reintegrate persons into a society if the citizens themselves, in collaboration with other citizens, do not participate in this reintegration. The authors believe that the decentralization of agencies is a necessity and that the implementation of citizen participation projects is an effective means of diminishing the amount of crime.

Aren't "community participation" and "community involvement" only words to hide the lack of success of professionalism, at least in the correctional sector? Do we want to revive rural society in a large city where social control becomes an antirecidivism pledge?

Participation is essential, but is not without risk, especially for the probation or parole officer. Will the latter become someone who transmits knowledge, who will be occupied with the most difficult cases? Will he be a specialist in criminological diagnosis? Or will he become the man who can no longer leave his office because he is constantly receiving complaints of probationers, parolees, and volunteers regarding his judgments? Will he become the "professional" who is no longer anything more than a functionary of participation?

Recent Examples of Community Participation

In Canada, many participation projects have been set up: for example, "The Criminal Court Volunteer Program" in Ontario, "The Training Group for Volunteers in Juvenile Delinquency" sponsored by the Center of Orientation and Readaptation of Montreal, and the system of "Big Brothers."

Certain recent experiences concerning the establishment of halfway houses or community residential centers illustrate the relationship between the community and correction forces. The first is "Joins-toi" ("Get involved") in Granby which brought together a group of citizens discontented over the opening of a halfway house near their homes and a group of workers in the cor-

rectional field supported by citizens and inmates. A second experience is that of the project of the Katimavick Committee in Chicoutimi. The New World House in Montréal is the third.

The Granby "joins-toi" experience. The Canadian Penitentiary Service and the National Parole Service wanted to establish a community correctional center (CCC) in the town of Granby. The imminent closing of a wing of the Cowansville Penitentiary which housed day releasees made finding a place in which to continue the day release program imperative. Granby, the site of the parole office, seemed an ideal candidate by virtue of its shortage of unskilled labor and the willingness of local industries to hire inmates and ex-inmates.

After selection of a site to house 30 day releasees and the National Parole Service staff, meetings were held with the Urban Commission, the City Council, the police, and representatives of business and industry to determine whether there were any objections to implementing a CCC in the most crime-free and fashionable neighborhood of Granby. Following unfavorable receptions from some of the organizations approached and vehement protests by several town residents, a committee was formed at the mayor's behest. It was decided that a quadripartite committee, consisting of members of the National Parole Service and the inmate committee, citizen-volunteers, and classification officers, should be created to establish an implementation strategy for a CCC and to supervise public sensitization. Despite extensive public relations activities (e.g., radio and television spots, newspaper articles and inter-

views, meetings between inmates and citizens in Granby residences, and organized tours of the Cowansville facility), public opposition to the CCC continued, and political organizers, attempting to discredit the project founder, began to get involved.

Realizing that the government would never consent to a CCC in Granby, the committee recommended the formation of a nonprofit corporation to work with government and the public toward establishment of a community residential center (CRC) rather than a CCC. By August of 1976, four parolees had been installed in the "joins-toi" CRC; neighborhood residents, however, again took up the fight and obtained a ruling in their favor from the City Council. "Joins-toi" took its case to superior court and, in January 19?6, the City Council's resolution against the CRC was defeated, and the Council was ordered to issue the necessary permit of occupation and use at the expense of the town of Granby and those who had intervened.

The Granby experience showed that the community is not ready to accept the inmate or ex-inmate at the very first within its own boundaries. People agree in principle, but not when their neighborhoods are in question; they even refuse to be receptive to information about the possibility. Because of the political pressure brought to bear, a governmental organization would not have been able to continue the struggle for a CCC; a nonprofit organization made up of members of the community has the advantage of more freedom of action and can even afford to go to court. Even if zoning laws are favorable to establishment of a CRC in a given district, one must still fight against a certain segment of the community. There is

always a way to gain the support of some if not all of the residents of adjoining neighborhoods.

The Chicoutimi experience. A committee composed of citizen-volunteers, the Katimavick Committee, was formed to follow up on an event which raised the consciousness of the population regarding the problems of ex-inmates. One of its principal projects was the creation of a CRC. Beginning in January 1976, a theoretical study of the goals, program, and clientele of a CRC was conducted. Research into a suitable site was directed toward elementary schools which are reasonably priced, easily transformed into residential facilities, and readily available on the market. An agreement in principle was developed with the Arvida local school board for the purchase of a school located in a working-class neighborhood, but the committee also decided to meet with the local residents in order to sensitize them, make them feel secure in the presence of ex-inmates, and explain the project to them.

The meeting was organized in three stages: a letter distributed to the neighborhood residents, a door-to-door visit by the Katimavick Committee members to residents' homes, and a general assembly of all neighborhood residents. During this meeting campaign, it was learned that a petition had been circulated and signed by most of the neighborhood residents demanding that the town of Jonquière attempt to acquire the school for use as a recreation center. The meeting plan was nevertheless carried out by convening a general assembly on August 13, 1975. The planners of the recreation center took advantage of this occasion to stage

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a demonstration which disrupted the proceedings considerably and made conveying information to the public nearly impossible. Most of those in attendance agreed with the humanitarian aspects of the project, but expressed their frustration regarding the neighborhood recreation center which had been promised them.

From then on, it seemed practically impossible for the Committee to acquire the school for a halfway-house-type facility. On September 24, 1975, in fact, the local school board decided to sell the school to the town of Jonquière for the purpose of setting up the desired recreation center. This failure represented a year's delay for the Katimavick Committee's project. Any effort at sensitization such as the one undertaken would result in the creation of new needs, which are basically only reactions of fear toward ex-inmates. The Committee no longer intends to pursue such types of consultation with the public, but will use the results gathered in its survey as representative of the opinion of the total population.

The "New World House" experience. The Rosemont section was originally chosen as the New World House site because its population seemed most normalized from the socioeconomic perspective. A commercial-residential zone was selected because change there is more accentuated and frequent and because the obstacles and difficulties of interaction seemed easily surmountable.

One of the fundamental hypotheses of the social apprenticeship program of the New World House is interaction with the citizen and its correctional implications. Many variables, such as the heated social climate created by the Granby experience, probable opposition

to the project, and the various perceptions of a sample of citizens regarding the subject, brought the project promoters to adopt different policies at different levels of action.

The first step of a general sensitization approach involved educating students of nearby Rosemont College through courses in social psychology, social apprenticeship in a group atmosphere, and courses in industrial psychology (i.e., personnel administration), in which the clientele was composed of neighborhood residents actually working in diverse businesses and industries. Many of the project's administrative staff were influential in the Rosemont section; their presence, combined with the sensitization efforts of the project council, helped calm resistance and assure key figures about the safety of the project.

A policy of "fait accompli" seemed the best for the general public: the citizens residing in the neighborhood did not learn about the halfway house until 6 months after it began. In the interim, the citizens were made to feel safe in that their daily life had not changed or been endangered; they had also had the opportunity to meet the house residents in the community setting.

Conclusion

From the experiences of these three projects it is apparent that the average citizen is not going to readily accept the presence of the delinquents living near his home. The absence of consultation with the citizens of a given section, that is, the pure and simple imposition of a center without fanfare, appears to

be the most adequate and effective solution to the establishment of a halfway house. It remains evident that the community residential center is the nucleus of the relationship between the community and probation-parole forces. The CRC responds to a real need for certain types of releasees.

The citizen is interested in the CRC only when he feels injured. The delinquent is interested because of what he stands to gain; the professional because of the lack of success of the formulas of control and traditional treatment.

At least in Québec we are far from having given way to the "uninitiate," far from having convinced him of his usefulness to the delinquent, especially far from having convinced him that he is better protected by parole or by probation than by incarceration. The prejudice against delinquents among the "uninitiates" is strong and will remain so. Here we are attacking an imperative of the social structure: to repay the citizen who does not transgress the laws by stigmatizing the delinquent as a person unworthy of the "human race." From this arises the fear of those who have "done time," the certainty that uncontrolled impulses exist in all delinquents.

In the criminologist, this prejudice manifests itself in a much more refined manner. Instead of rejecting the delinquent himself, the professional will refuse to truly recognize criminogenic milieus and even to accept the reality of organized crime; he will not believe in the possibility of violence among certain inmates and will minimize the consequences of certain acts on the victims.

From Crime et/and Justice, v.4, n. 2-3:98-107. August-November 1976. Published by the Department of Criminology, University of Ottawa, Ottawa, Ontario K1Y 1E5, Canada. Presented at the Second Canadian Conference on Applied Criminology, Ottawa, May 5-7, 1976.

Notes on Banishment and Its Effects

Notas sobre o Banimento e seus Efeitos* (NCJ 20447)

By Ronaldo Rebelo de Brito Poleti

Banishment constitutes a restriction of freedom in that the banished individual is expelled from national territory and must consequently reside outside of the country. Prohibition from returning to the country lasts for as long as the measure is imposed. Banishment may be permanent; it reflects the Government's interest in removing from its territory whoever becomes injurious to national life. It is a judicial measure, whether it results from sentencing or from political foresight.

During the period of the Empire, the Criminal Code provided for banishment which permanently took away the rights of Brazilian citizens and prohibited them from ever returning to inhabit the territory of the Empire. Banished individuals who did return were condemned to life imprisonment. The Penal Code of 1890, during the period of the Republic, eliminated the lifetime duration of banishment. Those who returned to the country before the end of

* Translated from the Portuguese by Technassociates, Inc.

the banishment period were to be condemned to as much as 30 years' imprisonment if they had not earlier reacquired their rights as citizens.

Banishment was abolished by the Constitution of 1891 and was not reinstated until September 5, 1968, under the Institutional Acts, numbers 13 and 14. Reasons for this reinstatement included revolutionary or subversive psychological warfare as well as the possibility of outside war. The kidnaping of a foreign diplomat caused the passage of the Acts, enabling the Government to save the diplomat's life without compromising the sovereignty of the State. The kidnapers were banished from the country rather than freed, as they had demanded.

In the terms of the Institutional Act, the measure is used by the Executive Branch against Brazilians who have proven to be unsuitable, injurious, or dangerous to national security. The text of the act omits the effects of banishment on the civil life of the individual. The first amendment later introduced banishment into the Constitution giving it its juridical sanction as, under the Institutional Act, the measure of banishment cannot be exercised by the Judiciary branch. According to the Institutional Act, the duration of the penalty of banishment is temporary and remains at the discretion of the Executive, conditions that are not required for banishment in the Constitution.

Two aspects are fundamental to the development of this topic: nationality and residence of the banished individuals. Nationality is considered a juridical situation and not a right, notwithstand-

ing the Universal Declaration of Human Rights, which proclaims that all persons have the right to a nationality. From the sociological point of view, nationality consists of a factual concept and has no legal connotations, although it is a political bond between a human being and the State. For this reason, the legal international aspect is predominant, and it is not to be confused with criteria of internal jurisprudence. In this way, nationality differs from citizenship, which is an essentially internal juridical notion. However, taking the opposite viewpoint that citizenship and nationality are synonymous, it is easy to verify nationality's juridical nature if we see it as a condition of the person. Thus, from the political viewpoint it is a mode of existence; that is, persons are either nationals or foreigners. Such a state is clearly a legal situation.

International law and the organizations which defend it have made great efforts toward the reduction of the number of stateless individuals because it is in the best interest of both individuals and nations that everyone have the protection of some country. This problem has been discussed with respect to refugees, who should not be confused with the banished individuals treated here. It was in response to the situation of refugees that the doctrine of the necessity of a nationality was elaborated. Whatever the reason behind a refugee's condition, what he loses are his political rights, and therefore his citizenship, but not his nationality. The conditions for loss of nationality are provided for by the Constitution, and banishment is not listed as one of

these. Hence, banished Brazilians do not lose their nationality.

It is argued that the State may use political banishment independently of the Constitution because, while the Constitution does not restrict the legality of the measure, it is clear that the reasons of the State retain their extraconstitutional form. In the case of one such political banishment, that of the imperial family, it is argued that the Emperor and his family did not lose their nationality, but their civil rights, which they did regain completely in time.

Originally, residence in Brazil was required of any individual seeking the aid of consular authority in performance of civil instruments. However, this residence requirement has been abolished. Banished individuals have the right to the acts of the Civil Registry and the notary, in the absence of any impediment which consular authorities of Brazil maintain and which legally comes within their competence.

Some have maintained that imprisonment or exile (a form of banishment) signify a change of residence if such sentence is for the lifetime of the individual. Nonetheless, Brazilian law provides that the domicile of the prisoner or the exiled individual is in the place where the sentence or exile is carried out. The situation of banished individuals must be considered analogous.

The banished individual may not exercise political rights. This is neither a suspension of those rights nor a permanent loss of them, but rather the impossibility of exercising them for the length of the banishment (for which time citizenship is lost).

As a consequence, the individual may not vote or run for office. Public officials who are banished must lose their posts because they would no longer be residents, a legal qualification of office.

Civil rights flow from the very existence of the person. Banished individuals cannot be deprived of them, although they may have restrictions on the manner in which they exercise those rights as a consequence of their legal residence.

Three conclusions are drawn: (1) the banished individual is subject to Brazilian law, effective 3 months after it is officially published; (2) all of the conditions of international private law referring to succession are applicable to the banished individual, and his or her nationality is deemed Brazilian, with residence abroad; and (3) it is possible for the banished person to appoint a representative by public instrument drawn up in diplomatic offices, but it will not be possible to designate a trustee.

From Arquivos do Ministério da Justica, v.33, n. 137:89-98. January-March 1976. Published by Ministério da Justica, Rio de Janeiro, Brazil.

Das japanisches Polizeisystem* (NCJ 43886)

From the establishment of the "Keihoryo," a police division in what later became the Department of the Interior ("Naimusho"), in the seventh year of Meiji (1874) until the end of the Second World War, there was only one central police system in Japan. A characteristic feature of the central police system of the time was its centralized control and direction, which was carried out by the Police Division within the Department of the Interior. Local police matters were assigned to the prefecture commander, who, as a government official, came under the Department of the Interior.

History and Change

After the war, more specifically in 1947, the previous "police code" was brought into conformity with the "garrison policy" of the allied military forces stationed in the country. Under this com-

*Translated from the German by Virginia Allison of Aspen Systems Corporation, 1978.

pletely modified police law, a decentralized system similar to those of England and the United States was established.

Changes were made primarily in the following areas: (1) the responsibility of the police was limited to those affairs concerned with "keeping peace and order, dealing with crime, and protecting life and property"; (2) the system for maintaining public safety ("Koan Linkai Seido") was established for the first time at the national as well as the local level as a democratic system of administration and command for the Japanese police; and (3) all large towns, cities, and villages in the country with populations greater than 5,000 were given an "independent police force." Because of this change, the Japanese police became much more democratic than it had ever been.

It was soon found that this new decentralization had many drawbacks which considerably impaired the effectiveness of the Japanese police on the national level. In addition, the "autonomous police" caused considerable financial burdens for the large towns, cities, and communities.

In order to eliminate these organizational difficulties, the current police code (Law no. 162 of June 8, 1954) was passed. This new law was to retain the strong points of the previous police code with its democratic ideas and correct the difficulties and weak points discovered through experience.

Under the new police code, the system for maintaining public safety, which had been established under the first police code, was retained; it guaranteed the democratic administration and super-

vision of the police and its political neutrality. The responsibility for the protection of public peace and national order was more clearly defined. The chairman of the National Public Safety Commission was also a government Minister, a step which greatly improved the overall coordination between this commission and the Government. The double system of the National Rural Police Force and the Municipal Police Forces was abolished. The two forces were integrated into a central police force under the name of "Prefectural Police" ("Todo-Fuken Keisatsu"). These consolidations eliminated the ineffectiveness of a divided police force and the previous financial burdens on local authorities.

Police Organization

According to a major decision, all police matters in Japan are settled by the local police agencies. In this way, "local autonomy" is strongly emphasized. However, all police matters have a certain national significance as well, so the State must supervise the activities of the local police throughout the country.

To take care of this national responsibility, the National Public Safety Commission and the National Police Agency (NPA--"Keisatsucho") were founded as national agencies to handle the supervision of all local police forces and to guarantee the coordination and cooperation which is essential among local police forces all over the country.

National Public Safety Commission (NPSC--"Kokka Koan Iinkai")

The NPSC is under the Prime Minister and is responsible for

all police activities connected with public safety in Japan. It is concerned with police training, police communications, identification, crime statistics, and police equipment, as well as coordination in the area of police administration. The NPSC consists of a chairman and five members. In order to emphasize the administrative responsibility of the cabinet, a Minister is named chairman of this special commission. The chairman represents the NPSC and presides over its sessions.

The political neutrality of the police is guaranteed, as the chairman himself has no command authority, but has only the privilege of casting the deciding vote in a tie. The members of this commission are appointed by the Prime Minister with the consent of both Houses of the Diet. A candidate may not have been active with the police or with other prosecutorial authorities during the past 5 years. In order to further guarantee political neutrality, the police code provides that the majority of the commissioners may not be members of the same political party. The NPSC supervises the National Police Agency in matters that have been assigned to the commission.

National Police Agency (NPA--"Keisatsucho")

The chief of the NPA (Commissioner General) directs and supervises the local police forces in all matters which require command and coordination. The appointment or discharge of the Commissioner General is carried out through the NPSC with the consent of the Prime Minister. The internal divisions of the NPA are the secre-

tary's office and the following five bureaus and one division: Police Administration Bureau, Crime Control Bureau, Traffic Bureau, Safety Bureau, Communications Bureau, and Safety Division of the Crime Control Bureau.

The agencies connected with the NPA are the National Police Academy ("Keisatsu Daigakko"), the National Research Institute of Police Science, and the Imperial Guard Headquarters.

Its local agencies are seven Regional Police Bureaus ("Kanku Keisatsu Kyoku") and two Police Communications Divisions, which have only been organized in Tokyo and Hokkaido.

Each of the seven Regional Police Bureaus supervises the activities of its subordinate departments, with the exception of the Tokyo Metropolitan Police and, because of geographical considerations, the Hokkaido Metropolitan Police.

Organization of the Tokyo Metropolitan Police and the Prefectures

Under the chairmanship of the Governor of Tokyo and the prefecture commanders, commissions were organized as administrative agencies responsible for the supervision of the Tokyo Metropolitan Police and the local police forces. In such prefectures as the city of Tokyo and the larger cities such as Osaka, Nagoya, Kyoto, Yokohama, Kobe, Kita-Kyushu, Sapporo, Kawasaki, and Fukuoka, these commissions consist of five members. In other prefectures, they have only three members. In addition, in Hokkaido, a three-member Area Public Safety Commission which is responsible for the supervision of the Hokkaido area's four police area headquarters, was

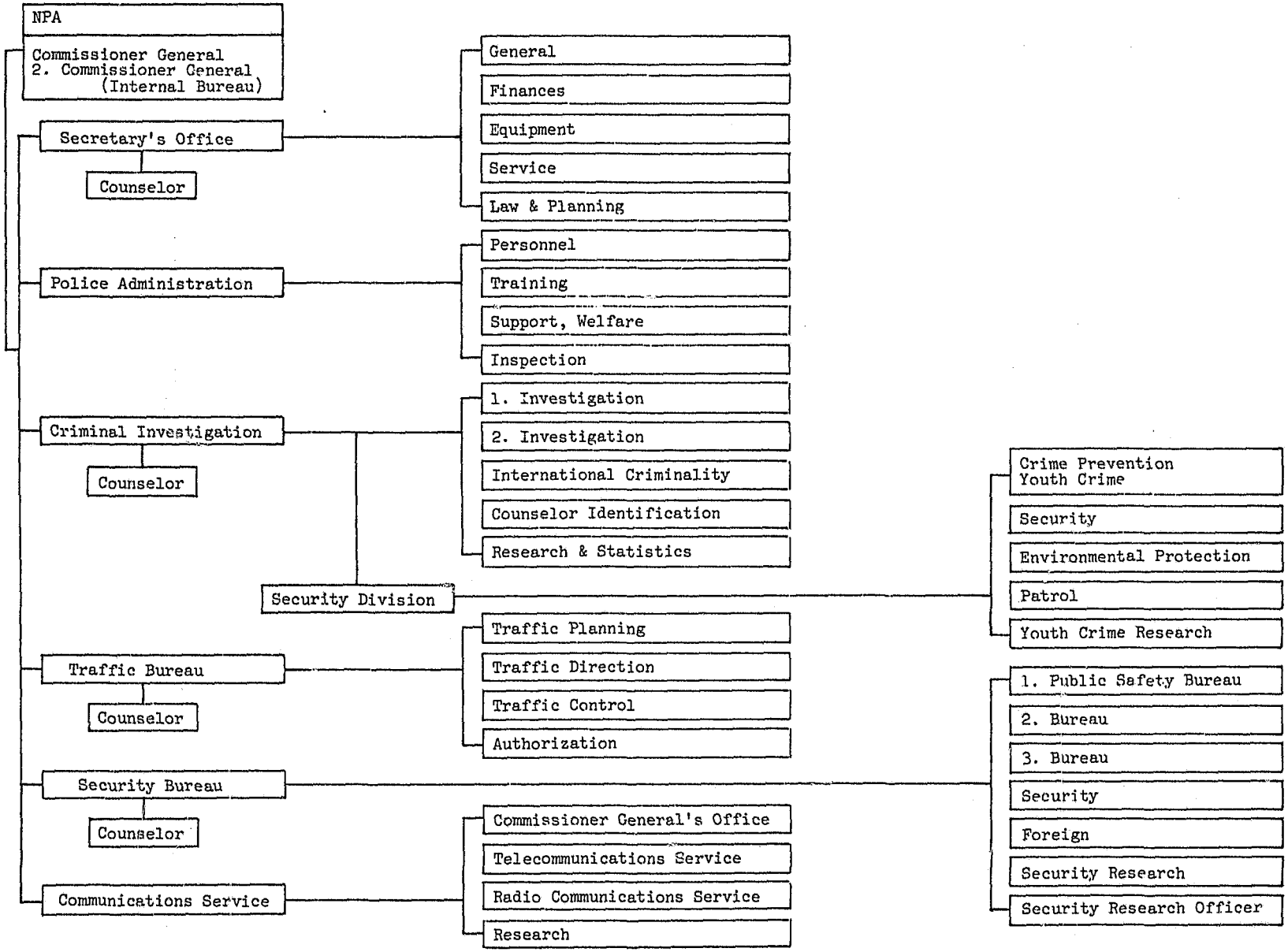
founded.

The basic rules of the NPSC are also applicable to the members of the various safety commissions. The Tokyo Metropolitan Police is headed by a Superintendent General ("Keishisokan"); the local police forces by Directors ("Honbucho"). Considering the particular importance of the Tokyo police, the Superintendent General is appointed or discharged by the NPSC with the consent of the Safety Commission of the Prime Minister.

The appointment or discharge of the police directors is done by the NPSC with the consent of the current city administration or local safety commission.

From Schriftenreihe der Polizei-Fuehrungsakademie, v. 4, n. 3:77-82. 1977. Published by the Polizei-Fuehrungsakademie, 4400 Muenster, Zum Roten Berge 18-24, Postfach 48-02-03, West Germany.

Organizational Chart of the National Police Agency (NPA)



Police nationale et polices municipales* (NCJ 34725/36668)

By M. Bernard Asso

Philosophically, the State (or administrative) Police in France is the preventive arm of justice, while the municipal (or judiciary) police is the suppressive branch. Traditionally, police power is essentially a municipal function. According to law, the communal police function belongs to the mayor, who exercises power over the security and convenience of negotiating public roads, disturbances of the peace, brawls, disputes, unlawful assembly, maintaining order at places of assembly, methods of transporting the deceased, etc. The mayor also has traffic police at his disposal for control of thoroughfares within urban districts. Rural police are similarly under the mayor's jurisdiction. However, the term municipal police has come to mean not simply a function exercised by the mayor, but municipal police officers charged with the task of enforcing municipal ordinances.

*Translated from the French by Deborah Sauvé of Aspen Systems Corporation, 1978.

Nationalization of Municipal Police

The trend toward nationalization of municipal police may be traced back to the French Revolution. Under the Empire, a minister of police, corresponding approximately to today's Minister of General Police, was the keystone of a highly centralized police organization. Under him were General Directors of Police whose powers encompassed several departments of France. Each department had a General Commissioner and several special commissioners, and each city had its Commissioner of Police. A law of the era provided for a Commissioner of Police for each city of 50 to 10,000 inhabitants and an additional commissioner for each additional 10,000 population. Louis Napoléon, President of the Republic, made an important reorganization of the municipal police in 1852, which resulted in appointment of police commissioners by the prefects in cities of fewer than 6,000 inhabitants and by the President of the Republic in cities with greater than 6,000 population. According to an 1855 law, in chief towns of departments having a municipal population in excess of 40,000, the prefect performed the police functions. The mayors retained their authority over safety and freedom of passage on public roads but under the supervision of the prefects.

Between World War I and World War II, several laws were passed at the insistence of the "communes" (districts administered by a mayor and a local council) installing State Police in cities where the need was apparent. In 1929, however, the Conference of the Association of Mayors of France declared itself against national-

ization of police personnel. Under the Vichy government, police personnel in cities of more than 10,000 were answerable to State authority, while police power in cities of less than 10,000 remained unchanged. Beginning in 1946, the post of Commissioner of Police was abolished in cities of less than 10,000 and replaced by the post of Secretary of Police. At the same time, a movement began against State Police in favor of remunicipalization of police power. The demarcation line of 10,000 inhabitants also was the subject of many heated debates, occasionally leading to absurd interpretations. Budgetary considerations, however, led to an increasing trend among the municipal authorities to favor the presence of State Police by 1972.

Dichotomy Between Police Personnel and Police Authorities

The procedure of police nationalization led to a double dichotomy, on the one hand, between police authorities and police forces, and, on the other hand, between the power of police and the execution of police measures. Thus, the mayor is a police authority and the police chief represents police force. This distinction was not always a rigorous one, and its relative fragility does not infringe on the separation between police power and execution of police measures. As a result, in cities of less than 10,000 inhabitants the mayor, as head of police services, implements executive decisions, while in cities larger than 10,000, the mayor resorts to the State Police, which in turn is subject to the authority of the State and thus of the prefect, to accomplish

the same mission.

At the present time, the authority of municipal magistrates in large cities is considerably reduced in relation to the pre-war situation. They can do little other than control the conduct of fairs, parades, public spectacles, cafes, and public places. On many occasions, the mayors and associations of mayors have vehemently expressed their opposition to this situation. The juridical function of the police remains, even after transfer of powers to the prefect, a partially municipal function, and the activities of State Police personnel within the commune concern mainly, although to a decreasing extent, the commune itself.

Prerogatives of Municipal Authorities in Relation to State Police Personnel

National police personnel are at the disposal of the mayor because the law provides the mayor with responsibility for enforcement of laws and regulations as well as of the municipal code. Nevertheless, the mayor has no hierarchical power over the State Police personnel.

As a consequence of the 1941 Communal Administration Code (CAC), the role of the mayor in maintaining peace and order was retained, but the prefect was made responsible for insuring that the public is not affected by acts of individuals or groups. Furthermore, in cities with nonnationalized police, when an intervention to maintain order must utilize State Police, the chief of police appoints, at the suggestion of the Departmental Chief of Service, a police commissioner charged with coordination of personnel. In

cities having State Police, the State Police are at the disposal of the mayor for upholding standards, with the exception of certain legal provisions. Consequently, mayors of large cities have lost their essential prerogative and are no longer responsible for maintaining public tranquillity and morality.

Financial Obligations of Municipalities Toward National Police Services

According to the CAC, communities are required to contribute financially to support police costs in cities with State Police. In 1973, several cities refused to pay large increases in the supplementary police budgets. Furthermore, several mayors have been long convinced that the creation of a municipal police, responsible for the performance of secondary tasks, would free the State Police for more important duties. Certain large cities took to establishing urban municipal police corps to complement the State Police. The recent development of municipal police forces in the nationalized zone shows that mayors of large cities henceforth have at their disposal a permanent police force, and thus have partially regained the power that they had lost as a result of the nationalization of police personnel.

Municipal and National Police Forces

Among the many problems encountered in relation to the police force are the submission to the law, relationships with public opinion, the shortage of manpower, and the increase in crime; the separation between cities having State Police and cities having

municipal police adds to these the problems of coordination of administrative structures and activities.

Although this historical review reveals a gradual erosion of mayoral authority in police matters, city governments have been dissatisfied with the protection which should be offered by nationalization of the police of larger cities. Thus the relationship between city police and State Police is based on the status of city police forces and coordination of their missions with those of the State Police.

Status of Municipal Police Forces

Community police personnel include the rural constables, totaling 29,000; city police, numbering 7,000; and in certain cities, city policemen under contract. Private guards and volunteers have a specific juridical position.

Rural constables, who cannot be employed by communities of more than 2,000, are appointed by the mayor, approved and commissioned by the chief of police, and sworn into office. The Code of Criminal Procedure designates them as Agents of Judiciary Police (AJP). They do not, however, have the rank or authority of Officers of Judiciary Police (OJP), and it may be concluded that they do not belong to the class of judiciary police agents of the second category; this group includes the city police. Although rural police are functionally city police, they are not necessarily sworn. City police agents under contract are appointed by the mayor after recruitment, but they must be approved by the prefectorial authority.

Their powers are described by the contract, but they are not Agents of Judiciary Police.

Police personnel not included under the category of community personnel include a corps of civilian guards to perform night patrol. The Minister of the Interior has stated that the mayor, as an Officer of Judiciary Police, may provide for the security of his constituency through the appointment of citizens to perform certain functions until the arrival of State Police. One mayor had formed "intervention committees" in the absence of forces of law and order. The Minister of the Interior, however, has specified that such citizen surveillance groups not be armed. A corps of city police agents should be commissioned by rural or urban proprietors whose goods they are to guard. Although they can make reports of misdemeanors and infractions concerning the property under their surveillance, they have no police powers other than those attributed to all citizens in cases of flagrante delicto.

Thus, although different categories of personnel may participate in the enforcement of municipal police ordinances, they are all subject to a unified disciplinary system. Rural constables and city police agents can be suspended only by action of the mayor, and the suspension can last more than 1 month. Both have the right of access to their own personnel files. In cities of under 2,000 population, the mayor recruits and directs the rural constables; these are aided by the gendarmerie in emergency situations, as requested by the mayor. The gendarmerie may request the rural constables to assist the squads in emergency missions. This is explained by the

fact that the gendarme has the status of either Officer of Judiciary Police or Agent of Judiciary Police of the first category, while rural constables in cities of less than 2,000 population, who are elsewhere city police agents, are second category Agents of Judiciary Police.

In cities with 2,000 to 10,000 population, the inspectors, sergeants, corporals, and police officers are appointed by the mayor. Generally in these communities, an inspector, police secretary, or official of the State Police, having the status of Officer of Judiciary Police, acts as commissioner with the title of Station Chief.

In cities with more than 10,000 population, if police power is not exercised by the State Police, the above applies. If the police personnel are nationalized, they are recruited on a nationwide scale, subject to regulations of public functions, at the disposal of the mayor, and represent the authority of the Departmental Director of Urban Police.

Coordination of National and Municipal Police Forces

Although the State Police and municipal police are complementary in law and in fact, this relationship leads to different types of collaboration in nationalized zones and nonnationalized zones. The missions of both are the same in the nonnationalized zone, while there is some differentiation in the nationalized zone.

Since enactment of the Code of Criminal Procedure, in the nonnationalized zone, only the mayors, their assistants, and sometimes, in cities of over 10,000 population, the State Police inspectors

have the status of Officer of Juridical Police. Consequently, agents of city police have the competence of second category Agents of Juridical Police. Both categories of Juridical Police are responsible for carrying out: (1) arrest orders for witnesses who default; (2) warrants of arrest and of commitment; (3) decrees and sentencing decisions; and (4) arrests. The agent of city police is not empowered, however, to conduct a preliminary investigation, although under the Code of Criminal Procedure he can determine that criminal infractions have occurred and can gather information for the purpose of identifying the culprit.

The rural constable has the same powers, with the additional functions of juridical police: he is competent to note infractions and misdemeanors of a rural nature and those pertaining to forestry, infractions of municipal regulations and ordinances, and infractions of special laws. Once the infractions have been noted in a police report, the rural constable must affirm his report by swearing to its veracity before the mayor or his assistant. In cities of less than 10,000 population, the rural police should insure enforcement of municipal statutes; here the flagrante delicto procedure becomes important.

The State Police, under the authority of the Chief of Police, is responsible for insuring observance of all police decisions based on the Code of Community Administration, while agents of the city police cannot intervene at the mayor's request in areas covered by certain provisions of the Code. This would suggest the existence of a "big police" and "little police."

Citing a shortage of personnel, the city police actually tend to broaden their mission, often conducting surveillance patrols, justifiable under the law regarding suppression of attacks on public tranquillity. Thus, agents of city police can in effect act sometimes as State Police as well. This implies very close coordination with State Police operations and administration.

Chiefs of Police of nationalized zones are instructed to insure that local chiefs of service free State Police of "minor tasks." Cities also are charged with providing, through their own police personnel, all services not imperatively demanding the presence of officials of higher authority. In reality, however, State Police take action when agents of city police lack the material means to control their own situation, as well as in cases of major public disturbances.

The coordination of missions and separation of authority may lead to paradoxical situations in the nationalized zone as a result of the law of 1941, which presupposes the availability of sufficient personnel or a stagnant rate of delinquency. In the non-nationalized zone, on the other hand, coordination of the missions of State and municipal police is relatively easy. In the event of serious crime, such as crimes presumed to have been committed by professional criminals or by organized gangs, the magistrate can appeal to the judicial police service to take action beyond the means of the gendarmerie. In this hypothetical situation, the rural constables provide aid and assistance as needed. This confirms one of the essential reasons for nationalization of the po-

lice: the need to call on more highly qualified personnel.

Conclusion

Certain fundamental problems of administrative law are encountered in the dichotomy between municipal police and State Police: the concept of public order, the term "local matter," and the separation between judiciary police and administrative police.

The mayor actually has lost his original status; he is no longer responsible for protection of the constituency that had elected him. Furthermore, if the State Police placed at the disposition of the mayor execute decisions based on certain laws, they act as municipal police; while if they act under the responsibility of the police chief, based on another law, they function as State Police. This is important because it may possibly lead to destruction of unity in the State Police. Such an interpretation of the law may easily lead to a different distribution of the State Police personnel into forces specialized for intervention in public disorders, unlawful assemblies, and mob scenes; municipal police for "minor affairs"; or revival of old projects concerning reattachment of the judiciary police to the ministry of justice. This would imply conferring the status of Officer of Judiciary Police on the chiefs of these intervention corps and also creating centers for training municipal police. In any event, municipal police should be nationalized because there should be no reason for mayors to devote funds to the municipal police while withholding payment of their legal quota for the State Police.

From Police nationale, n. 99:23-25 and n. 100:13-23. 1976. Published by Revue de la police nationale, 11, rue des Saussaies, Paris 8, France.

Twenty-five Years of the West German Federal Criminal Police Bureau

25 Jahre Bundeskriminalamt* (NCJ 37254)

In 1951, the creation of the West German Federal Criminal Police Bureau (Bundeskriminalamt--BKA) was sanctioned by law. It was modeled on the Criminal Investigation Department of the British Zone in Hamburg that was originally organized by the British Military Forces. By 1953, the BKA had 359 employees and was located in Wiesbaden and Bad Godesburg, where the Security Group was organized to assume Bonn's security tasks.

The BKA has investigative jurisdiction in cases of internationally organized crime involving drugs, weapons, munitions, explosives, and counterfeit currency. It also handles politically motivated crimes directed against Federal governmental bodies, guests of the State, and members of diplomatic missions. Although it generally provides security for governmental bodies and guests of the State, the BKA occasionally handles special cases at the request of the individual states, Federal ministers, and judges.

* Translated from the German by Technassociates, Inc.

The BKA is also the West German national headquarters of Interpol.

The expansion of the BKA and its activation as the center for combating crime occurred in 1970 as a result of a government program that called for the immediate modernization and intensification of the war on crime. This meant a fundamental increase in personnel and facilities as well as a drastic improvement in technical equipment. In 1973, the Bureau became the center of electronic information exchange between the Federal Government and the West German States. The budget for the BKA as of 1976 was 143 million DM, and its personnel numbered 2,425.

A focal point in the expansion of the BKA was the implementation of a computerized INPOL system with over 700 terminals which permits the various German police authorities immediate access to the total body of police knowledge. This results in an increase in overall police effectiveness, less annoyance to those for whom suspicion of criminal activity proves groundless, and the preclusion of arrests or detentions on the basis of outmoded information. The following computer applications are currently being developed or utilized by the BKA: (1) processing of fingerprint data with the goal of query and output in real time; (2) building of a crime/criminal data bank; (3) implementation of a comprehensive documentation system for the retrieval of criminalistic/criminological literature; (4) retrieval and documentation of facts from investigations of politically motivated acts of violence through input of INPOL-PIOS worksheets; and (5) implementation of a central "jeopardy" data base, in which information about vulnerable key figures,

potential and known assailants, and appropriate preventive and repressive measures, is available to the authorities.

As early as 1969, the Bureau had begun implementation of a picture telegraphy service. This service currently has on record over 3 million sets of fingerprints and 3.5 million photos (of 1.5 million people) that are available on a round-the-clock basis.

The large budget of the BKA has enabled its Crime Technology Division to expand considerably. Its personnel today number 128. Two computers and a Raster electron microscope aid their efforts. The Division collaborates with research centers on various projects, but the focuses of their tasks are ballistic and graphological problems.

The considerable workload of the BKA is particularly evident in the Investigation and Analysis Division which concentrates on the retrieval and evaluation of information about serious crimes by known and unknown perpetrators that are of regional or international significance.

In 1975, the Terrorism Division was organized. It works closely with foreign and domestic security authorities to counter politically motivated acts of violence.

The Security Group in Bonn-Bad Godesburg, which is responsible for the protection and escort of Federal officials, visiting dignitaries, and other vulnerable figures, undergoes comprehensive and specialized education and training which incorporates most aspects of criminology, refined police techniques, and even foreign language classes.

As the national headquarters for Interpol, the BKA is the connecting link between the West German police authorities and the 121 other Interpol members, including the Interpol General Secretariat. According to the Interpol statutes, the BKA's chief task is the support of police investigative activity through transmission of information, identification, searches, interrogation, arrest, and custody, as well as apprehension for extradition purposes.

The BKA has significantly broadened its criminalistic/criminological research since 1973 with an emphasis on minimizing crime rather than improving crime-solving techniques. Lawyers, psychologists, sociologists, and other experts collaborate in these efforts, and the wealth of computerized data is used to help define what factors are relevant in the evolution of criminal behavior and how best to anticipate it in order to formulate preventive measures.

Education and training of BKA candidates takes 3 years. The process begins in institutions run by the individual German states, continues at the Police Academy in Muenster, and is finally completed under BKA auspices. Police from the German states also receive specialized training from the BKA in fingerprinting and demolitions.

The future goals of the BKA, barring any unforeseen contingencies, are threefold and fall within statutory sanctions: (1) further expansion as a news and information center of the German police concomitant with application of the latest data and commun-

ications techniques; (2) further advancements in the war on international crime; and (3) optimization of investigative procedures in the war on internal crime falling within BKA jurisdiction.

Bundeskriminalamt, Wiesbaden, West Germany, 1976. 84 p.

Societal Causes of Social Conflict in Connection With So-Called "Political Criminality"

Gesellschaftliche Ursachen sozialer Konflikte im Zusammenhang mit sogennanter „Politkriminalitaet"* (NCJ 38994)

By Eberhard Dietrich

The main purpose of the hierarchically organized institution called police is to maintain the free democratic order defined in the Constitution. To this end, police officers must possess a basic understanding of the social structure of the Federal Republic of Germany, their own social behavior, and that of their colleagues and fellow citizens, as well as the motivations for this behavior. The police operate to a great extent according to existing norms, both in training and in professional practice. If the officer achieves distance from his own system of values by gaining insight into possible forms of social behavior and systems, he can be expected to be more tolerant and cooperative.

Max Weber's definition of sociology as a science will serve as an introduction to the topic: Sociology is a science which facilitates comprehension of basic human behavior, if and insofar as the behavior has a subjective meaning for the acting party.

* Translated from the German by Technassociates, Inc.

Social behavior is individual behavior which is influenced by the behavior of other parties.

Sociology--The Science of Social Activity

Reducing this definition to a simple formula, one could state that sociology is the critical and systematic experimental science of social behavior and social institutions. To understand what will be elucidated here, it is necessary to know that social versus asocial behavior does not distinguish good from bad behavior; social behavior is not the opposite of individual behavior (i.e., an individual behaves socially when acting in accordance with the expectations of others); and social behavior is not the collective behavior of a group.

Four groups of social behavior can be differentiated on the basis of motivation: (1) behavior motivated by expectations about the behavior of objects and people, using these expectations as conditions or means to achieve success or desired goals; (2) behavior motivated by values (i.e., conscious belief in an ethical, esthetic, religious, or other intrinsic worth of a particular form of behavior); (3) behavior motivated primarily by emotions; and (4) behavior motivated by tradition: barely rational, this behavior involves virtually automatic response to familiar stimuli, as in habitual everyday behavior.

Behavior Patterns and Social Norms

Regular, repeated forms of social behavior are called behavior patterns. Their significance is decided on the basis of three

criteria: their prevalence, the social pressure which brings them about, and the social value attributed to them.

Obviously, behavior patterns are closely related to social norms. When called guidelines, their standardizing character becomes evident. Social norms are the consciously or unconsciously known rules for most individuals living together in various sized groups. Such norms provide security by making the behavior of others predictable and are reinforced by negative sanctions (punishment, antipathy) and positive sanctions (rewards, sympathy). Sanctions assume control and the exercise of power, thus extending into the field of social roles, which are, according to Dilthey, interpersonal; that is, they are determined in a fashion significant for group dynamics by the behavior and expectations of others.

Development of a Pluralistic Society

Feudal aristocracy in Germany was replaced through the revolutions of 1789, 1813, 1830, and 1848 by a bureaucratic state which was capable of solving early industrial problems; e.g., through the social legislation of Bismarck. As democratic principles prevailed, monarchical power was transferred to oligarchic structures, making the question of authority significant. Between the poles of rebellion and submission, the distribution of power produced ambivalent forms of power. The Freudian libido theory with its emphasis on individual renunciation of directly aggressive drives illustrates the constraints of civilized society on the individual. The con-

clusion of Marx's Communist Manifesto that the authority structure of a society is determined by the means of production and that class rule is practiced under the guise of democracy leads to the concept of an antagonistic society. A comparison of socialist and capitalist systems along these lines shows sharper differentiation of the class strata in the socialist system, total power of the privileged class in the socialist system and hidden power in the capitalist society, and purely rhetorical political and economic power of the working class in socialism versus organized representation of interests in capitalism. The pluralistic society thus formed is characterized by the scope of the individual groups; communal feeling and cooperation within the separate groups is essential to realization of their interests in a democratic system.

Certain developments are hindered when set group norms assert themselves: groups on pluralistic societies exercise power by preventing decisions while mass parties in mass democracies tend to form oligarchies of a small inner circle. According to one definition, an individual who agrees for the sake of agreement behaves asocially because his action prevents society from developing further. Likewise, so-called pressure groups can endanger the democratic principle by interfering with each other's operation without authority. The goal of terrorism is to create a continuous state of insecurity and physical fear in the citizenry by using an instrument of power and intimidation, in imitation of those still in power.

Sociological Theories

To understand the theoretical foundations for such behavior, two viewpoints must be differentiated: sociology from the side of the subject (didactic), and various ways of viewing and studying the subjects at hand (methodology). Three theoretical contexts are named, followed by four theoretical perspectives.

Behavior theory, developed by Max Weber, is concerned with how society is expressed in regular forms through human behavior. The theory of man in society explores variants of roles played in groups according to theories of inequality and institutionalization. The theory of society in society, part of sociological systems theory, deals with the relationship of subsystems to the whole. The four contrasting methodologies are comprehensive, reductionist, functionalist, and conflict theory sociology. A combination of the three theoretical contexts with the four theoretical perspectives produces an analytical system of coordinates for classifying most historical and sociological theories.

The choice to present only the perspective of sociology based on conflict theory is supported by the statement that the usual element of almost all social relations is a divergence of interests and that so-called common interests are the result of prevailing interests from the past (tradition -- learned interests) and present (authority -- interests which have prevailed). Conflict theory is rooted in stated positions of Karl Marx (e.g., "Social behavior is practical behavior," "Social behavior is materialistic behavior") which imply that the basic structure of social conditions is antag-

onistic and contradictory. Social behavior is oriented for Marx in social reality, not in theoretical viewpoints or rhetorical values, and Marx rejects all idealistic and individualistic conceptions with the statement that the human being is not an abstraction within an individual but rather the totality of social relationships, a view generally held today.

Social Reality

A content view of social reality thus becomes important; that is, one stating that norms only derive meaning from the sanctions which underlie them. According to Marx, the decisive factor in a society with punishment for nonconformity and rewards for conformity is power in the hands of the ruling group, state, industry, or military, not an ethical value like democracy or a goal like emancipation. For conflict theory, divergence of interests, not inalienable common values, is the basis for society. The sanction-punishment-reward complex is learned, so that a system is formed which simultaneously strengthens the hold of the dominant authority and forces the role player to follow exactly the role determined by the sanctions. Demands for power and violence understandably arise, and emphasis is placed on theories which point out the inequalities between individuals and groups in modern societies and which stress that individual members of society are not in reality rewarded according to their contributions.

Sociology must determine which causes and forms of rule produce particular inequalities. Strata cannot be adequately defined

by profession, income, education, or consumption, indicating the complexity of the phenomenon of authority. The following theses derive from stratification theories of social inequality: causes of stratification include differing valuation of members of society, necessity of a varying system of inducements in order to fill all the positions of society, and varying conformity of social values and norms. Conflict theorists especially emphasize the negative, nonselective nature of stratification, which tends to lock people into positions for generations, to benefit the minority at the expense of the majority, to cause social conflict, and to act as a divisive force. Whether sanctions behind norms (Dahrendorff) or authority (Wesolowski) are viewed as the cause for social inequalities, a conflict situation emerges which nevertheless has an integrating function in that it permits freedom, group formation, and social change. Others criticize the accumulation of goods by those in positions of power.

From this point the dialectical connections to Marxism, Leninism, or Maoism are clear. Exploitation and alienation of the underprivileged are viewed as the effect of stratification, and the only positive fact for Marx is that the historically necessary intensification of class differences must lead to class struggle, rule of the proletariat, and a classless society.

Every Social System Is as Imperfect as Its Members

Any pluralistic society, parliamentary democracy, or communist state is only as good or as bad as its representatives. This dia-

lectical utopianism, which intends to eliminate exploitation, shows a belief in the possibility of a real utopia; the final goal of a direct democracy can only be attained by the revolutionary destruction of the late capitalistic order. The underlying premise is that, ideally, the human being can be changed by radical education and that any means to the end is justified. That is the simplified formula for radicalism of both the left and right. The fear of the younger generation that it may be manipulated by excessive information exacerbated the conflict situation, which explains the popularity of Marcuse's thesis that revolutionary rejuvenation of society and politics will originate at the university level, making politics a science and activating science politically. The old Hegelian and Marxist dialectic of unity of theory and practice thus gets a new ideological twist: according to the most consistent representative of the system, Mao Tse-tung, "one must use the gun to get rid of the gun"; i.e., use force to eliminate force. In contrast to the social understanding which stresses conflict as competition and resolution without violence, dialectical materialism views social change as struggle resolvable by force. The recent decision of the United Nations to define Zionism as racism shows the tendency of the underprivileged to assert their interests. From a dialectical standpoint, the shortcomings of democratic structures can only be changed for the better through the use of the instruments of authority.

In attempting to interpret interaction in small groups, theories of group dynamics (e.g., Durkheim, Asch, Brocher) have estab-

lished that sociometry can help to explain the social structure of groups. Identification with a group is reflected in physical symbols as well as in norms of behavior. Very cohesive groups have an increased chance of reaching their goal, and very stable groups can withstand conflicts. Such groups avoid watering down their goals through contact with other groups. Political crime is the consistent application of the premise for their view of society: using the instruments of authority to overthrow authority. The rejection of regulation to resolve conflict leads to the use of any means. The sociology of crime must base the concept of criminality on deviant behavior, and any general theory of criminality should be based on the theory that common values are founded in common social interests; i.e., normality is the result of the successful establishment of norms by the majority.

The Sociology of the Police Profession

Arising from a set definition of criminality but presenting various forms in practice, the police profession is contradictory. The goal is protection, with punishment a manifestation of success; the police are on the side of the prevailing norms. Sociology may disturb the police officer by causing him uncertainty as well as certainty. The number of sociological publications on the police is increasing, and all of them define the police as representatives of the existing order. Some redefine the role of the police as instruments of the class struggle, rather than as protectors of the populace. In the former view, the police exist to keep the man on

the street subjugated and obedient without his knowledge. Only if one accepts the analysis of society from the standpoint of classes, however, are the police seen as instruments of exploitation. Criticism of the brutal force of the police in a dialectical framework can be a justification for the use of counterforce to change society; for that reason one must always consider the political standpoint and theoretical background of each theory.

Criminality in a politically social context is independent of the definition of such criminality. The police must support the order which they are commissioned to enforce. Systematic critics seek to justify the use of physical force on the basis of police brutality.

From Schriftenreihe der Polizei-Fuehrungsakademie, v.3, n. 4:23-34. 1976. Published by the Polizei-Fuehrungsakademie, 4400 Muenster, Zum Roten Berge 18-24, Postfach 48-02-30, West Germany.

Relationship Between the Economy and Domestic Security From a Criminological Point of View

Zusammenhaenge zwischen Wirtschaft und innerer Sicherheit aus kriminologish-kriminalistischer Sicht* (NCJ 38313)

By Friedrich Geerds

Criminal practices which may jeopardize domestic security are discussed. They include economic crimes, in which individual companies and the economy in general are victims of criminal practices by persons active in the economy; business crimes, in which companies and the economy are victims of criminal intrigues perpetrated by employees on their employers, such as theft, fraud, and forgery; and crimes such as espionage and betraying secrets, as well as terrorist acts such as assassination or hostage-taking. Suggested measures to counteract these crimes follow the discussion.

Economic Crimes

The connections between the economy and domestic security are difficult to define as neither the West German criminal code nor subsequent legislation clearly outlines specific economic crimes,

* Translated from the German by Technassociates, Inc.

except for the explicit reference in Section 265 regarding insurance fraud. Criminologists can usually contend with this problem as crimes against individual rights frequently also affect the economy in general. Just as bankruptcy can cause a chain reaction destructive to the whole economy, the collapse of a company can rob individual workers of their livelihood. In the case of economic crimes, the importance of long-term damage to the economic structure outweighs that of individual losses.

The very complex ways in which companies and the general economy, including consumers, are affected by such crimes and the fact that many of the criminals come from within the economic structure make it extremely difficult to provide even a minimum of domestic security. Moreover, it is very difficult to assess the damage caused by economic crime, even for experienced businessmen. Outsiders posing as businessmen may also engage in such criminal activities, but their role is not nearly as important as that of the insider who is in a far more favorable position to cover up his activities.

Many criminal practices are particularly difficult to unravel because the victim himself cooperates in hopes of profiting, as in the case of usurious loan deals. In a free market economy it is very difficult to establish definite criteria for the market price of goods or services and to distinguish between legal and illegal interest rates. To avoid publicity many companies do not report such crimes to the authorities, preferring to settle privately with the criminals.

The situation has improved somewhat because of the use of experts by police and prosecutors; however, such assistance is costly and the number of criminals too small to warrant such expense.

Business Crimes

Little research has been done on the subject of business crimes, and criteria have not been clearly defined. Crimes committed by employees working with outsiders cannot be considered specifically as either economic or business crimes and therefore are not considered in this study.

The criminological definition of business crimes must be narrower. Crimes committed in the place of business by employees against colleagues or customers are not of interest because these crimes have little to do with the business as such but only as the business provides a setting for the crime.

If business crimes refer only to illegal acts against the business by employees, they must be differentiated from economic crimes by insiders, although some overlap can be assumed. All of the various forms of behavior typical to economic crimes should be classified.

If business crimes in the narrow sense only include crimes by employees against their employers, they encompass not only theft but also other forms of criminal behavior. Many cases of ostensible shoplifting probably could be traced to employees. Although firms frequently do not want to prosecute such cases because of potential damage to the work atmosphere, their financial losses can

be very great. Other possible criminal practices of employees against employers include forgery, intentional damage to equipment, and even sabotage. These are best discussed under the heading "other criminal practices," even if employees are aided by insiders.

Such criminal behavior is the business both of plant security police and of state law enforcement institutions. Although these crimes more closely approximate conventional crimes than do economic ones, the work is difficult for police because of the very complicated organization within the particular business. Police must frequently rely on the cooperation of employees.

Despite a somewhat different framework and lesser damage, the problems of dealing with business crimes are similar to those of economic crimes.

Companies as Victims of Other Crimes

Other criminal practices affecting companies have nothing to do with commercial activities or employees of the firm in question, except as these employees may be accomplices, causing these specific crimes to be categorized as business crimes. A well-known example, important because it is common, is the hotly discussed subject of shoplifting. Reformers and members of the avant-garde believed that they had found a new area for decriminalization. Others sought to use the shoplifting problem as an excuse to pass on the cost of maintaining security police to the consumers and, by doing so, to legalize private justice. Both concepts are wrong.

Spying, betrayal of secrets, and sabotage may have various ob-

jectives, representing, for example, an act against a hated group, such as capitalists, or resulting from national, religious, or racial prejudice. The political arguments in this case are often totally subjective. Such acts can also be committed in the course of a competitive struggle, a more typical form of economic crime than bank robbery and kidnaping for ransom or other concessions.

Given this range, conditions for domestic security vary widely. Such crimes are frequently conventional and relatively easy to solve. Some of them, however, especially those against large concerns, are executed with great technical finesse and planning. Political acts of terrorism against companies important to the general population directly challenge society and the State and should have the highest priority for domestic security. The deeds committed in a competitive struggle, however, can be just as difficult for law enforcement agencies to combat.

Overall Assessment of the Facts and Possible Consequences

In an overall assessment of the facts relating to the connections between the economy and domestic security, one distinguishes between repressive crime prevention and truly preventive possibilities which go beyond law enforcement both technically and organizationally. Neither area should be neglected, and it becomes clear that domestic security is a matter of concern to every citizen, especially those in economic professions.

With regard to repressive crime prevention, not a great deal can be expected from jurists; i.e., penal legislation and the ju-

dicial process. Instead, it is more a matter of applying laws; in practice, this depends on the existence of a definite body of criminological knowledge and criminalistic work which makes it possible to solve crimes rapidly.

Rather than create a special field of law, legal experts should concentrate on clarifying the focus, importance, and basic issues of real economic crimes; e.g., profiteering, producing counterfeit merchandise, insurance abuse, certain competitive offenses, illegal cartel offenses, bankruptcy offenses, and tax crimes. These economic crimes should not be classified with fraud or other crimes against individual property but should comprise a special group of social offenses against the community, in a class with forgery or counterfeiting. As social offenses these economic crimes would be considered more serious than property offenses and would affect punishment accordingly.

A more convincing application of the law is of the utmost importance. In dealing with criminal concepts, it is essential for criminological research to work out those viewpoints which emphasize the similarities among such behaviors for purposes of legal differentiation. This would confirm the usefulness of concepts such as economic and business crime for legal practice. Only then will the necessity of differentiating these crimes from others grouped with them become clear.

As for shoplifting, it is clearly not a question of law or of decriminalization. No differentiation can be made on the basis of the offenses, and professional shoplifters would scoff at the ef-

fort. The seriousness of the crime on the basis of its perpetrator does vary, and groups of offenders should be differentiated by interpretation of existing law rather than by making new laws. In addition to hardened or young developing criminals, there are also occasional shoplifters who act out of character. The system of penal law which deals only with individual crimes and cannot handle repeated and related patterns of crime is the cause of the present difficulties for domestic security.

Repressive crime prevention is not actually as dependent on law or its application as on circumstances surrounding an act. Only when it is clear what happened can culpability and penalty be determined.

In addition to criminological knowledge, criminalistic experience must be developed; i.e., both aids and principles or knowledge of criminal techniques. Cooperation must be fostered between criminological disciplines, using technical, psychological, and economic approaches to achieve success in solving crimes and apprehending criminals. The criminal code has little preventive effect as such, but measures can be taken in other areas such as civil law and social law to help eliminate criminal practices.

It is most important that the endangered companies themselves take measures to assure security through an effective internal security force, financial cooperation, and operating within the economy in a way that would permit optimal security or monitoring. Cooperation with criminologists is also recommended.

From the criminologist's viewpoint, the connection between

economy and crime would seem to require a rethinking of social laws. Furthermore, the practicability and realistic orientation of standards are more essential for domestic security than standards "on paper." The difficult questions surrounding offenses must be considered. Modern society is greatly affected by economic change, and even though the effect of crime on the economy should not be overemphasized, criminal activity can seriously disrupt society, creating problems for domestic security. Control of criminal elements in the economy can be achieved by cooperation with law enforcement agencies and utilization of technical and organizational security measures.

From Archiv fuer Kriminologie, v. 158, n. 3-4:65-79. September-October 1976. Max Schmidt-Roemhild Verlag, 2400 Luebeck, Mengstr. 16, West Germany. Based on a report delivered at the International Professional Convention "Security 76," May 13, 1976, Stuttgart, West Germany.

Analysis of Police Investigation From the Viewpoint of the Subsequent Judicial Process

Analyse polizeilicher Ermittlungstaetigkeit aus der Sicht des spaeteren Strafverfahrens* (NCJ 36833)

By Wiebke Steffen

This study examines the factors which influence the control functions of the police with respect to their law enforcement activities in the fields of larceny, fraud, and embezzlement, seen as a part of the entire system of penal social control.

The assumption is that "criminality" is the result of a comprehensive selective process in which the penal/social control institutions--police, public prosecutor, and court, and even the public itself--are decisively involved along with the perpetrators and victims of actions defined as legally punishable. Two questions are then, above all, of central interest to research: (1) What are the criteria leading to the elimination of offenses and offenders from the process of prosecution? (2) Which of the penal/social control institutions concerned in fact decides which persons out of the total number of individuals considered as suspects will be accused and finally convicted?

* Translated from the German by Technassociates, Inc.

The question of the structure of the penal definition and selection processes and the part played by the institutions of penal control with respect to criminality may be answered if one considers it from the standpoint of the efficiency of prosecution: What are the aims to be achieved by prosecution, how far are police and legal authorities' operations coordinated, and how efficient do police investigations turn out to be when seen from the viewpoint of subsequent legal proceedings?

Study Methodology

Three empirical methods which complement and control each other were used. An analysis was made of a sample of 4,588 dossiers relating to crime against property and other assets carried out in eight Provincial Court jurisdictions of the Federal Republic of Germany (FRG) in 1970. Discontinued and charged legal proceedings were included. Of these dossiers, 3,250 preliminary proceedings refer to larceny, 826 refer to fraud, and 512 refer to embezzlement.

Nonstandardized individual interviews were conducted with 79 police officers at the regional courts in question. Investigating officers of the uniformed and plainclothes police force who had been handling these cases were contacted. Moreover, the topic of police investigations and subsequent legal proceedings was the subject of informative talks with the head of each specific section.

Subsequently, eight group discussions with the interviewees were held. The issues of investigational police work and the rate of cases cleared, referring to the most essential results of the

dossier analysis, served as a basis for these group discussions.

Results of the Study

Factors which determine police control functions within the structure of penal selection processes were first considered. While the police (and also the institutions subsequently involved) are handling a case, certain offense factors turn out to be decisive for or against further prosecution. Each individual offense presents the police authorities with different investigational possibilities and difficulties. In this connection, three features of the offense are of particular importance for a successful outcome:

(1) The "visibility" of an offense from "outside" (i.e., to the victim or to the police) which will have an affect on the victims' decision to report. More than 90 percent of the offenses in the sample came to the notice of the police through a complaint. Visibility may also affect information which the victim may furnish to the police when lodging a complaint, including the circumstances of the crime and the possible offender.

(2) The probability of solving a case; i.e., the possibility of tracing a suspect still unknown at the time that the offense is reported to the police. The statistical knowledge that police officers have gained through experience in cases with "suspect unknown" has a strongly selective effect on the type of offense to be pursued. Investigations into thefts by unknown suspects are not pursued.

Complaints of this sort will only be "followed up on paper." This procedure is used far less, however, in fraud and embezzlement cases offering no evidence. The greater the portion of unknown factors, the lower the probability that investigations will be carried out in a serious attempt to solve the case.

(3) The varying extent of evidence problems in connection with a punishable act; i.e., the possibility or impossibility of proving the offense in a legally sufficient manner.

These rather juridical problems in solving a crime occur primarily in cases of fraud and embezzlement and frequently end in the quashing of the proceedings. Elimination of most offenses from further prosecution is based upon these factors. Selectivity is therefore widely dependent on the offense concerned.

Selection determined by certain social features of a suspect, such as age, sex, and social class, is far more rare. Young suspects (14-20 years) are more easily convicted of an offense than older ones. The reasons for this are very likely to be found in their higher visibility and, consequently, in the possibility of verifying their conduct. The probability that the processes of prosecution will culminate in a trial is greater for young suspects than for older ones. Women are not treated in a milder way. Sex does not have a manifest impact on the further course of the prosecution. The social class to which the suspect belongs is of little relevance to the police investigations or to their results. Very seldom can it be proved that police control functions show

statistically significant selection with respect to an offender's way of life and to the detriment or benefit of a specific social rank. Of greater importance than the suspects' social characteristics are their previous records and their readiness to confess, thus rendering police inquiries successful. As intervening variables both factors account for the greater part of offender-oriented selection.

Compared with offense variables, the suspects' social features are of relatively little importance as far as the control functions of the police and also of the judicial authorities are concerned. The preponderance of juveniles, adolescents, male adults, and persons of lower social rank among traced suspects must be seen more as a consequence of penalty norms applying to specific categories of lawbreakers, the perpetrator's opportunity to commit a particular offense, and the selective reaction of the victim in lodging a complaint, and less as an offender-oriented selection on the part of the police.

The relative positions of police and public prosecution have developed in a direction contrary to that intended by the legislators. The masters of the preliminary proceedings are the police, not the public prosecutors. They determine which offenses qualify for further intensive inquiries: the obligation to prosecute all offenses which derives from the "principle of legality" is not realized. The police focus their investigational efforts on particular areas, especially taking into account the harmful effects of an offense to society. Petty misdemeanors falling within the

range of offenses studied here are now to a considerable extent just "administered"; investigational efforts by the police concentrate on major crimes.

Only in exceptional cases do the public prosecutor's offices intervene in police inquiries which, as a rule, are autonomously conducted by the police forces themselves. The outcome of their investigations, their success rate (clearance rate), and also their failures, mistakes, and omissions have a very noticeable and decisive influence on their prosecution practices.

The main burden of the police inquiries lies on the solution ("clearance") of a case and not on the possibility of finding a basis for the prosecutor to decide whether proceedings are to be dropped or an indictment is to be brought in. However, as "cleared" does not always imply "indictable" or "punishable" (police and prosecutor define the notion of "reasonable suspicion of an offense" to some extent in different ways), misunderstandings and meaningless action may come to pass which jeopardize the efficiency of prosecution.

The question posed in this study about which factors determine the penal selection process may thus be answered as follows: While the opportunities of committing different offenses, the different norms applying to different sections of the population, and the reaction of the victim in lodging or not lodging a complaint determine to a great extent what information and which persons come to the attention of the law enforcement organizations, the police (who are in fact "masters of the preliminary proceedings") determine which

offenses and offenders will remain in the prosecution process. Communication and cooperation seldom come about between police and the public prosecutor's office; on the other hand, it is very rare that major frictions and misunderstandings arise between them. Since the control functions of police and justice depend largely on their limited material means and available personnel, police investigations and legal proceedings dealing with the offenses covered in this study--those representative of "mass criminality" -- are not characterized by interest in the individual case but represent routine bureaucratic work. All the organizations concerned are primarily interested in settling the proceedings as quickly and smoothly as possible; thus it does not matter whether procedures always correspond to prescribed norms governing the organizations' activities or to the goals of prosecution.

Legal-Political Reflections

Although the police operate efficiently within the confines of the means and personnel at their disposal in the legal selection process, could not justice be still more efficiently served by a reorientation of the police/prosecutor positions in the legal process? Two possibilities present themselves in this regard:

(1) A return to the "will of the lawmakers": allow public prosecutors dominion in investigative procedures and create the conditions that will make them responsible for their legality, accuracy, and thoroughness.

(2) A legalization of the actual denouement: apply strict de-

marcations to the prosecution process (investigation, accusation, judgment) for the three bodies involved--police, prosecutor, courts--which are to be organizationally and functionally distinct.

These suggestions are not intended to redefine and reorganize the legal process as it now stands. They only attempt to give the process more objective criteria and eliminate any appearance of arbitrary decisionmaking.

Extensive supporting data, tables, and references are provided in the German-language original.

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Proposals and Guidelines for a Crime Policy

Presupuestos y Directivas para una Politica Criminal* (NCJ 39322)

By Manuel López-Rey

The seminar on the "Present and Future State of Criminality and Crime Policy," held at Caracas, Venezuela, May 10-21, 1976, is reported. Discussion was directed, though not exclusively, toward crime policy planning in developing countries. It is felt that the crime policy postulated by the participants will be more easily effected in democratic countries such as Venezuela.

Crime is viewed as a sociopolitical phenomenon determined by five essential factors: power, development, inequality, the human condition, and the penal system. It involves more than a summation of individually committed infractions, and should not be viewed solely in the light of statistics which show only the per capita distribution of criminality. There are two essential forms of criminality: Conventional crime (e.g., murder, robbery, rape) increases with the increase of violence in society, one form of which is penal repression; nonconventional crime (e.g., fiscal

* Translated from the Spanish by Technassociates, Inc.

fraud, high-level corruption, terrorism, torture, exploitation and destruction of national sources of wealth, inhumane institutions, and genocide) increases as a consequence of the cyclic process of violence, the emotional attitudes of the masses, organizations, and governments, and the persistence of unjust socioeconomic and political regimes which exist even in democratically formed systems.

Economically and politically motivated criminality is more widespread and serious today than that which is directed against individual life and property. The importance of such criminality cannot be explained by imperialism or any other "ism," but rather by the conjunction of the five aforementioned factors. In the context of the accelerated evolution of a society of mass production-consumption, the infiltration of multinational corporations into a country's economic and political scene rarely occurs without corruption, bribery, and dishonesty. U.N. Resolution 1721 (LIII) of 1972 provides for study of the effects of multinationals especially in the developing countries. The economic and political activities of the multinationals involve diverse forms of nonviolent criminality which are more damaging to the population of a country than the majority of common crimes. Such nonviolent crimes are generally committed with impunity, are practically unknown to criminology, and are hardly considered in crime policies.

Rather, most penal systems generally consider only the criminality of those from the lower classes, rarely that from

the upper classes. In Latin America, the percentage of those in jails who are awaiting sentencing often varies from 60 to 80 percent with waiting periods of from 2 to 5 years. Many positivist and diversionist criminologists have called for the abolition of prisons because they do not reform the criminal. Some of these with Marxist sympathies forget that there are prisons in Socialist countries at times less humane than those in Capitalist countries. Rather, prisons should be radically modified to be utilized for only about 10 percent of criminals.

In light of crime projections for the coming 25 years, the majority of penal systems are obsolete, unjust, increasingly costly to maintain, and frequently abuse human rights. Most governments approach their criminal policies in a piecemeal fashion of separate legal and administrative reforms by juggling parts of the penal code and judicial and police regulations rather than by pursuing a uniform goal of social justice.

Prison administrations seem to bear a double responsibility for old, though cosmetically rejuvenated, penal systems: first, for not confronting the other segments of the penal system more decisively, and second, for not having more courage in introducing reforms which would replace the dominant and oppressive concept of "security" with a concept of social function. Prison administrations are greatly influenced by emotional public opinion, which is in turn consciously or subconsciously influenced by the communications media. The media reflect the socioeconomic structure in which transnational wrongdoing related to the dom-

inant social classes receives scant attention; an image has been created, however, of a "struggle" against crime in which the "tough guy" is the principal protagonist. Without a doubt, society needs to be protected from such a criminal, but what of those "other" criminals?

Contrary to the ideas of positivist criminology, psychiatric criminology, and similar schools of thought, the purpose of the penal function is not rehabilitation or resocialization of the convict. Rather, the primary penal function, and the focus of subsequent crime policies and organization of the penal system, is social penal justice. Often in developed countries justice is replaced by the "justice" of an antiquated administrative structure. This substitution occurs when criminology maintains that the criminal and not the crime is the main point of interest. This concept gives rise to the concepts of "dangerous state" and "criminal personality" which continue to operate in acccordance with a goal of readaptation.

However, there are a number of problems regarding readaptation: (1) a number of criminals need no readaptation at all; (2) a growing number of inmates justifiably reject readaptation when the social and political structures remain intact outside of prison; (3) long sentences and abuse of solitary confinement do not allow for readaptation; (4) a certain number of offenders cannot be rehabilitated; and (5) any readaptation is contingent on a series of factors which readaptation workers cannot always anticipate.

The famous assertions regarding the examination of the "whole personality" of the inmate and of his "whole treatment," as well as his being "dangerous," have little justification. Rather it is the person and his human rights which the penal system must bear in mind. The idea of a person's danger to society may be a conservative sociopolitical mechanism used to protect the status quo in which mass emotions play an important role.

Cost benefit analysis of the penal systems in some countries shows the distortion of crime policies of the majority of the developed and developing countries. Generally, budgets of penal systems do not surpass 5 percent of the national budget. In France, it is less than 1 percent. With regard to Venezuela, between 1974 and 1976 the budget of the Department of Justice increased about 60 percent. "Crime policy" has often been merely to increase personnel and services; while such increases are sometimes necessary, this policy does not indicate coordination or planning. Crime prevention is almost exclusively aimed at the so-called "whole formation" of the juvenile population, a worthy endeavor which is nonetheless a minimal part of the complex task of crime prevention. In the most recent 5-year plan, zoning, urbanization, industrialization, and education should have been influenced by crime prevention consideration. With respect to conventional crime, the 18-40 age group is the most important; for nonconventional crime, the most important age group is 35-60.

At any one time, 77 percent of the inmate population in Venezuela is still being prosecuted. However, this fact cannot be

explained by criticisms of the officials of the current penal system or by the absence of crime policy planning, interest in which has been shown at the highest levels in the Ministry of Justice and by a group of young criminologists. In view of the urgent need for such planning, and in order to invert the pyramid and form a base of prevention and not of repression, 21 guidelines are expressed schematically.

1. The purpose of the penal function of the Government, of the policy toward crime, and of the penal system is social penal justice and, when practicable, the social reinsertion of the inmate.
2. Current penal reform commissions should be disbanded, and a Commission for Crime Policy, composed of representatives of industry, agriculture, and labor, as well as jurists, should be appointed.
3. Social penal justice requires that a process of decriminalization and criminalization, taking into account the present and future development of Venezuela, take place before renovation of the penal code and prison and judiciary reorganization. Such codes will be flexible and will offer the appropriate guarantees for human rights. The codes will be limited to no more than 250 articles, following the example of brevity practiced in Bolivia and Puerto Rico.
4. Police, judiciary, and prison statistics on crime must be systematized, and although they may be prepared separately,

they must follow uniform statistical bases.

5. A lasting system of penal justice must be established.
6. Criminological research for use as a tool in crime policy planning must be established. The Commission for Crime Policy would make use of criminological centers in the country or could organize its own research. Analysis of the costs and benefits of the penal systems should be conducted early in the research.
7. Existing police forces should be cut back to a minimum.
8. The process already begun of transforming the Judiciary Technical Police into the organization in charge of criminal instruction should be continued; instructional courts should be abolished, and such instruction should be handled by the penal sentencing judge.
9. An organization parallel to the Corps of Public Defenders should participate from the beginning in the instruction of the criminal.
10. One sole penal proceeding should be held. The right of appeal would not be automatic but could be rejected by the action of a system of rotating judges. The Penal Tribunal of the Supreme Court would pronounce sentence when an earlier sentence is quashed.
11. A jurisdiction of justices of the peace or arbitrators should be permanently established.
12. The number of judges, district attorneys, and public defenders should be increased in accordance with the data estab-

lished in previous research on decriminalization, criminalization, performance, evaluations, and inspections.

13. A compensation fund should be established for the victims of certain crimes.

14. Judges, district attorneys, and public defenders should be appointed by merit testing.

15. The current concentration of those awaiting trial (77 percent) in the penal population is chronic and reflects a continuing violation of human rights, especially those of the poor. It must be resolved by means of crime policy and penal system planning.

16. The public must be informed of penal injustice without sensationalistic distortions in the information media; cooperation of the media and organizations of workers, youths, and professions should be enlisted.

17. Penal institutions constructed on the basis of differing degrees of security should be replaced by institutions which are closed, semiopen, and open, with emphasis on increasing the number of open and semiopen types in accordance with the Minimum Rules of the United Nations for inmate treatment. The current policy constitutes an excessively costly vicious circle that will not be broken while there is no systematic planning of criminal policy. If the current situation were projected to the year 2001, there would be no less than 40,000 inmates, with continued poor living conditions and negation of human rights and dignity.

18. Also in accordance with the United Nations Rules, the officials and employees of penal institutions should be viewed as members of an important social service.

19. Social services of the institutions should be greatly increased. This intensification has higher priority than the creation of other professional positions in the Administration of Prisons.

20. Crime prevention activity must be extended as a part of the planning discussed above and must go far beyond the concepts of conventional criminality to inclusion in zoning, industrialization, colonization, etc.

21. A crime prevention law is totally unnecessary and sociopolitically and criminologically unjustified.

These 21 points constitute a condensation of the discussions in the seminar, but they offer a base more than sufficient, with additions and corrections, to begin the planning of criminal policy, as has interested high authorities in the Ministry of Justice, the Council of Judges, and the Office of Public Prosecutor General of the Republic since 1972.

1976. 26 p. Author's address: Greenhaven, Alston, Axminster, England.

Offense Classification and Rating, and Practical Applications Thereof

Straftatenklassifierung und -gewichtung sowie ihre praktische Anwendung* (NCJ 43729)

Papers from the International Symposium on the Classification and Weighting of Criminal Offenses and on Their Practical Application, February 16-18, 1977, held in correlation with a current research project of the West German Bundeskriminalamt (West German Federal Criminal Police Bureau), are presented. The project attempted to investigate improving the validity of crime statistics compiled by police by integrating new elements of classification into the statistics and "weighting" the degree of seriousness of offenses.

This project was undertaken in cooperation with the State Bureau of Criminal Affairs of Niedersachsen and Nordrhein-Westfalen, the Commissioner of Police of Bielefeld, and the Director of Police of Hannover. Presentations were made to an international panel of experts before the main investigation started, to enable suggestions to be taken into account.

* Translated from the German by Technassociates, Inc.

In papers and discussions, the latest state of this particular field of research was reviewed, and particular attention was paid to the possibilities and limitations of a criminological classification of offenses, of weighting the seriousness of crime, and of measuring damages comprehensibly, as well as to the difficulties of successfully using such scientific instruments in practice and within the limit of reasonable costs.

Among the first topics discussed was the danger of an abuse of personal data stored in electronic data processing systems; one must deal with both the problem of data protection and the political interpretation of findings of criminal statistics. The costs of collecting and storing data were then discussed. The psychological difficulties of data collection were found to be more serious than the technical problems of data processing and storage. A further breakdown of criminal statistics was justified, although everyone agreed that the collection of statistical data must be performed within the framework of daily police actvities and without overburdening persons who deal with the matter. Dealing separately with minor offenses and supplementary investigations limited in time and subject matter was one of the solutions proposed.

Discussion of hidden crime led to a comparison of "classical" and new criminality. "Classical" criminality is shown by traditional crime statistics while the latter mostly remains hidden or is dealt with by the other agencies, without police participation. Sometimes the effects of the new criminality are considered more serious than those of classical criminality.

The meaning and the possibility of considering offense seriousness in criminal statistics were also discussed. This seriousness is not sufficiently defined either by the penalties stipulated in penal provisions or by a calculation of damage actually caused by offenses. Social dangerousness and psychological damage cannot be measured in financial terms. In the past, attempts at measuring the seriousness of crime, such as the Sellin-Wolfgang Index, neglected crime directed against groups, institutions, society at large, or "superindividual interests."

Conclusions were drawn that neither the Sellin-Wolfgang Index nor the elements of the various offenses are sufficiently complex to constitute applicable instruments of measurement which would also be meaningful for practitioners. No general, comprehensive, total index should be used, as the total spectrum of crime cannot be represented adequately by any indicator. Police work must focus on the more serious forms of crime, although measuring instruments need to be found. The aim of the research project of the Bundeskriminalamt was to examine whether specially weighted indices for different sorts of crime or those classifications structured after the British model were better able to describe the detailed elements of an offense as exactly as possible.

Bundeskriminalamt department head Dr. Karl-Heinz Gemmer reported that, at the Bundeskriminalamt, criminalistic and criminological research must be oriented according to practical work requirements. Solutions cannot be expected in the near future. Soon, however, the Bundeskriminalamt will be in a position to

launch its own projects due to an increase in staff. Studies which previously had been terminated dealt with hidden crime, the behavior of the public regarding the lodging of complaints, the history and development of criminal statistics, the investigative activities of police in the light of subsequent criminal proceedings, work at the crime scene, and the descriptions of persons furnished by witnesses. Other technical operational equipment research was being done as well.

In an introduction to the conference topics, Edwin Kube noted that increased hidden-crime-related research, as well as a new labeling approach in criminology, has recently led to a decrease in scientific interest in the improvement of the expressive capacity of criminal statistics. Criminal statistics, however, have always been and will continue to be the basis for viewing and ascertaining knowledge regarding crime reality.

Essentially, criminal statistics are instruments for police organization, planning, and the rating of success. Criminal statistics must be developed into a useful indicator system for the extent, structure, and trends of crime.

In his presentation on crime statistics, social scientist Uwe Doermann stated that since 1953 the Bundeskriminalamt has prepared the annual police crime statistics for the Federal Republic of Germany, in cooperation with the State Criminal Police Offices. This involves police-recorded information on suspects identified and offenses investigated. To date, the Bundeskriminalamt has no direct access to the original data material. The future, however, will

probably see the availability of an information system, the "offender-offense data file," with electronically stored data regarding offenses, suspects, and victims. A coherent system of interrelatable substatistics would be available, showing times when crime was committed, crime scenes, crime density, crime scene types, offenders' places of residence, means used for offenses, victims (including the relationship between victim and offender), and damage caused.

Within the Bundeskriminalamt, the research group has also been involved in basic or supplementary research work on crime statistics in a number of areas: (1) Research into the "dark field" of unrecorded crime: regional victimization surveys and the collection of data on the willingness or unwillingness of the public to report offenses have been conducted or supported. The Bochum crime atlas is a current project studying the geography of crime, including that which is unrecorded. (2) Statistical instruments: This category stretches from a permanent check on the fundamental instruments of crime statistics to the examination and possibly the development of analytical methods including crime prediction. (3) Crime measurement: developing meaningful crime-measuring index numbers weighted according to offense seriousness is the objective here; i.e., making qualitative statements regarding recorded delinquency in a quantified manner. (4) Measurability of police work: setting up statistics on police organization and police activity is the long-term objective.

Professor F.H. McClintock of Scotland discussed the problem

surrounding offense classification and indexing at length; one of the fundamental difficulties is that statistics are compiled and used for a variety of purposes. An ideal classification for one purpose may be highly inappropriate for another. Official criminal statistics are compiled to provide an accounting of information to a particular segment of society.

Classification systems should be sufficiently flexible to allow for modifications and extensions over time. However, the diversity of aims in compiling data for official criminal statistics calls for the maximum capacity of subdivision in the information on both crimes and criminals.

The involvement of several distinct units, such as the criminal act itself, the offender, the victim, the circumstances of the crime, and the offender's motivation, are further discussed. Most national systems provide information on the crime and the offender unit; data are usually recorded solely on a legal classification basis. Few or none are categorized by the nature and circumstances of the antisocial behavior. Attention has also not yet been given to ways in which information relating to crime events, offenders, and victims can be linked.

During criminological research conducted at the Cambridge Institute, it was found that there exists a variety of different behaviors even among legally defined groups of crime such as sex offenses, robbery, violent crime, theft, willful damage to property, burglary, and fraud. It is further explained that robbery and violence against persons could conceivably be divided into

11 subcategories within 2 main headings of personal violence in the course of furtherance of theft (mainly robbery) and crimes of violence without theft. Obviously, the 11 groups contained in the 2 main classes provide only a general idea of the types of situations in which violent acts may occur. Classification by circumstances needs to be modified to keep abreast of changing crime patterns and to take changes in the law into account.

Recommendations are made that more attention be paid to large organizations as "victims" of crime and that more information be given regarding the nature and circumstances of property loss or damage through criminal acts relating to manufacturing or commercial activities. More informative data about these types of criminal activity are necessary for more effective police work and closer cooperation between the police and commercial organizations.

Professor McClintock suggests that we need to examine more closely the perpetrators of criminal acts in relation to how their criminal histories may be classified for statistical and criminological purposes as well as for the organizational context in which criminal acts were committed. Work related to the classification of criminal careers has either been restricted to personality classifications of deficiencies or to legal categories of known crimes. However, McClintock thinks that we need to develop circumstantial classifications of crime showing a refined criminological classification of offenders. The following categories of offenders are

proposed as a starting point: the "one-time" offender; the occasional opportunistic offender; the abnormal or mentally unstable offender; the semiprofessional offender within a criminal organization; the "lone" professional offender; and the professional offender within a criminal organization.

One of the main problems attached to using officially recorded data on crime is the fact that many different types go unreported. Various reasons exist for this phenomenon, and the recognition of the "dark figure" has led to an examination of the circumstances in which crimes are not reported to the police. Methods and techniques for perceiving or measuring the "dark figure" are not reliable.

The indexing of crime should be related to crime classifications based on situations as well as reportability to police. In addition, hidden delinquency and crime seriousness should be taken into account in a more sophisticated manner; e.g., murder is more important than housebreaking, and because they are qualitatively different, one cannot realistically weight them on a single scale.

Another participant, Dr. Wolfgang Zeiner of Austria, reported that police crime statistics have existed in Austria since 1953. However, it was not until 1971 that criminological phenomena could be covered by police crime statistics, as data processing and storage could then be handled electronically. Austria's second turning point of importance for police crime statistics was reached in 1975, with the institution of the new Austrian penal code.

The system of data collection for police crime statistics was improved: the criminological offense classification was enlarged and made more accurate. For the first time, victimological data were included for selected punishable offenses.

The criteria provided by penal law are still the primary means of structuring the Austrian police crime statistics. A criminological classification is being used for murder, sex offenses, and property offenses (with the penal qualification of fatal outcome), robbery, theft, and fraud.

A report was presented by Dr. Bernhard Villmow of the Max Planck Institute on an empirical survey examining the various crime seriousness evaluations made by members of different age groups (14-25 years old), by victims and offenders (officially recorded or unrecorded), and by test subjects with different levels of education (with or without secondary school education). Some of the subjects also participated in a study of the "dark field" of unreported delinquency.

Subjects' attitudes were identical for the most part among the 3 age groups under study (14 to 17, 18 to 21, and 22 to 25 years), although some offenses of indecency were attributed less seriousness by relatively young subjects. Ranking orders of the three social strata showed no significant differences, and there was no difference in the assessments of offense seriousness between victims and nonvictims. The number of victimizations undergone, amount of damage suffered, and time of last offense prior to the interview were found to be irrelevant. A link was found between an individual

offense and its frequency; offenses committed more frequently and admitted more readily during the "dark field" study were those subjectively rated to be of minor seriousness.

A Finnish researcher, Patrik Tornudd, discussed statistics based on damage in Scandinavia; problems associated with crime damage statistics relative to the concept of "damage" and to the proper subclassification regarding object, source, and nature of this damage.

Dr. Nelson Heller, an American participant, elaborated on the January 1972 results of a comprehensive study. Entitled "The Use of a Crime Seriousness Index in the Development of Police Patrol Manpower," the findings published by a research team at the St. Louis Metropolitan Police Department suggested certain benefits which might be achieved by police departments if they would incorporate crime seriousness information into their planning. Since then, few, if any, U.S. departments have adopted programs for collecting and incorporating crime seriousness information into routine operations. The reasons for these disappointing results were discussed.

According to Dr. Gernot Steinhilper, a German researcher, a coordinated overall preventive conception based on a safe empirical framework is needed to bring the crime rate down a noticeable degree. Individual efforts must be based on the result produced; i.e., the preventive effect. This requires in particular an analysis of efficiency, involving comparison of exemplary experi-

mental results with the results of current measures, cost-benefit analysis, measures of success, etc.

The symposium could be termed successful, as existing problems were pointed out and decisive questions were asked by various experts in the field.

Papers presented at the Internationales Symposium im Bundeskriminalamt, February 16-18, 1977, Wiesbaden, West Germany. 151 p. Sonderband der BKA-Forschungsreihe (Special volume of the Bundeskriminalamt research series.)

Automatic Research of Legal Documentation on Terminals Linked Throughout Italy With the Electronic Center of the Court of Cassation in Rome—A Fully Operative Reality

La ricerca automatica della documentazione giuridica su terminali collegati da tutta Italia con il Centro elettronico della Corte di Cassazione in Roma--una realta pienamente operativa* (NCJ 20417)

By Renato Borruso

Scope and Users of the Center

At the Court of Cassation in Rome, in the headquarters of the "Palazzo di Giustizia" (Hall of Justice) at Piazza Cavour, an electronic data processing center has been in operation for 2 years. Run by personnel of the main office of the Court itself (magistrates, clerks of the court, and judicial assistants in collaboration with a small team of technicians from Univac), it is able to supply "in real time" a complex and vast amount of documentation on jurisprudence, legislation, and legal doctrine.

The Center is linked by a network of terminals with approximately 100 judicial offices throughout Italy (Courts of Appeal and Tribunals) and, relative particularly to Rome, with the Constitutional Court, the National Central Library, the Office of the Attorneys General for the State, and various ministries (recently also with the Chamber of Deputies).

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* Translated from the Italian by Deborah Sauvé of Aspen Systems Corporation, 1978.

An average of 500 searches is effectuated daily through this network of terminals. This figure is destined to increase rapidly with the progressive spreading of knowledge about the research system and with the linking of other judicial and administrative offices to the Center.

With the authorization of the Ministry of Mercy and Justice on March 5, 1975, lawyers and notaries have also been admitted access to the terminals of Italy's judicial offices and have been given the right to perform research on their own behalf (temporarily free of charge), when compatible with the service needs of magistrates. Many requests, however, have been made by others in the legal field and by public and private institutions to enjoy the same benefits or to be allowed to link up with the Center through their own terminals.

The Reasons Behind Its Rapid Development

The rapid development of the Center is due to the universally established fact that the normal means of acquiring knowledge of the law (the "Official Gazette," legal journals, libraries) are becoming constantly less sufficient to bring up to date not only those in the field but also all those who are today compelled by professional duty to study the law (These are infinitely more numerous than the restricted circle of jurists!). Under the stimulus of the deep democratic renewal and the incessant technological development of society, legislation is in constant change. One need only think of the new family law, tax reform, new legal actions in

labor, or the forthcoming new code of penal procedure. The legislative sources themselves have greatly enlarged relative to the past (regional laws, regulated by the European Economic Community). The activity of the Constitutional Court, rather than decreasing, has been increasing to such an extent that there is a growing danger of encountering legal standards which are no longer applicable. The very orientation of the magistrates themselves in such an unstable and ideologically pluralistic society is not always easily foreseeable. All of these changes require a constant monitoring.

The Fundamental Principles of Automatic Research Realized by the Center

The Center implemented an automatic research system for juridical documentation on terminals, the "ITALGUIRE" system, conceived by the magistrates of the main office, but made operative thanks to the "FIND" program of Univac. This system makes possible the attainment of nearly all of the principal usages classically resulting from electronic data processing associated with "information retrieval." These usages may be summarized as follows:

- Random searching--the possibility of searching a document through any one of the data that the searcher guesses is represented in it, whether the datum is a number or a word, according to the free choice of the searcher. In this way, the searcher is totally relieved of the burden of knowing the criteria by which the documents have been arranged in the data base and of conforming to them. For

example, in order to find out whether a child's scooter is legally considered a vehicle, the searcher does not have to ask under what heading such information could be recorded (otherwise, one would have to consult some kind of directory of jurisprudence). It will suffice to type "scooter" on the terminal, and the computer will select in a few seconds all of the documents contained within the electronic data base in which that word appears textually. The searcher is only required to choose the most selective and precise datum respective to expressing the case at hand.

- Data masking--the possibility of using a datum in searching even when one only knows a few of its characters. For example, if a searcher remembers certain references of a law but not the date of promulgation, no search could be made in a normal library. On the terminal, however, the search could be started effectively with only the terms in the searcher's possession. The searcher is thus urged to use all of the data at his or her disposal, including those of which only a fragment can be recalled, a situation that would be insufficient in a manual search.
- Spectrum analysis of the documents--the possibility of tracing concrete data which are unknown, or remembered in such an insufficient way as to make expressing them impossible, by simply indicating the type of datum to the computer and then perusing the answer that the computer im-

mediately supplies, containing all the concrete corresponding data, properly regrouped. For example, if a searcher wants to extract the document with the oldest date regardless of its subject matter from a traditional document repository arranged by subject matter, all of the files would first have to be reordered on the basis of the criterion of document date. On the terminal, however, it would be possible to order the regrouping of all the documents on file by date, or on the basis of any other datum chosen, and to then know in a few seconds the oldest document in the entire data base. Spectrum analysis of the documents constitutes the most precise research instrument for a user who has a minimum of imagination.

- Data combination--the possibility of carrying out a search based on a single factor or on a combination of data, homogeneous or heterogeneous, which one wishes to find together ("and" statement), or excluded ("not" statement), or in alternation ("or" statement) in each document selected. For example, the user may limit himself to asking the computer to select all of the documents which cite a certain article of law or may add other articles of law or other elements of different types (words to be traced in the text of the document, dates, proper or geographic names, etc.). In this way, the user is able to make a precise "identikit" of any case through the combination of more factors.

- Sequence control--the possibility of controlling in any single selected document that specified data appear in a certain sequence. For economic reasons, however, this possibility is temporarily limited in the Court of Cassation system to a restricted group of words.
- Search by successive approximation--the possibility for the user to establish a true "conversation" with the computer through the terminal, to obtain a variety of answers from it in the space of a few seconds, and in particular, to obtain partial results after indicating each datum. The user would also receive complete or partial reproduction, depending on his choice made each time, of the selected documents on a video screen or printed on paper.

Contents of the Date Base Searchable By Terminal

The documents of interest to those in the legal field which may be automatically searched through the ITALGUIRE-FIND system are divided into eight separate files which contain respectively: (1) information on the constitutional legitimacy of laws and of acts having the force of law (7,019 documents, each relative to a single regulation. The file encompasses all the regulations processed by the Constitutional Court since its inception as well as those awaiting action); (2) civil jurisprudence (83,011 documents, each corresponding to a principle drawn from all of the civil verdicts handed down by the Court of Cassation, and sometimes also by judges of merit, from 1971 to the present); (3) penal jurisprudence

(30,965 documents, each corresponding to a principle drawn from a selection of penal verdicts handed down by the Court of Cassation, and sometimes by judges of merit, from 1966 to the present; (4) bibliographic information drawn from books concerning juridical and nonjuridical material located either in the library of the Court of Cassation or in the National Central Library in Rome (93,208 documents, corresponding to the same amount of books. The bibliographic index cards are furnished by the National Central Library; the indexing work is still in progress); (5) the collection of the complete texts of all national and regional laws (49,975 documents, each corresponding to an article of law). Up until now, however, only all the regional laws of general statute and all the national laws subsequent to July 1974 are on file; (6) jurisprudence of the Court of Justice of the European Communities (2,085 documents, each corresponding to a principle drawn from the decisions handed down by the Court from 1954 to the present); (7) information from the juridical journals in which are published and annotated both civil and penal decisions of the Constitutional Court and of the Court of Justice of the European Communities, which are cited in the documents contained in the first, second, third, sixth, and eighth files (22,415 documents, each corresponding to a publication or to an annotation of a decision; and (8) jurisprudence of the State Audit Court (6,868 documents, each corresponding to a principle drawn from a selection of verdicts handed down by the State Audit Court from 1926 to the present. The file is administered in collaboration with the State Audit Court, and the principles are sup-

plied by the main office of that Court).

Also scheduled in the near future is another file destined to assemble the jurisprudence of the tax commissions, according to the provisions of article 13 of the October 26, 1972, Decree of the President of the Republic, n. 236, which controls the new tax legal department.

To obtain an overall idea of the service rendered by the Electronic Data Processing Center, one should bear in mind the fact that nearly 600 million characters (at 6 bits) are filed in its memory banks.

"Conceptual" Document Search and the Thesaurus as a Means of Alining User Language With Document Language

By now there are many electronic data processing centers, abroad and in Italy, which "converse" directly with users through a wide network of terminals. The Electronic Data Processing Center of the Court of Cassation, however, has one peculiarity which distinguishes it from any other. It is important if only for the commitment and effort which its attainment cost. Specifically, the Court of Cassation computer, through a constant collation automatically carried out for every type of document on file with a special Italian-language dictionary called "Thesaurus," compiled by the magistrates of the main office and composed of approximately 50,000 entries, enables the user to select out, for every word he indicates as a search datum, not only the documents containing the identical word in their texts, but also those which contain in addition all of its morphological variations. In this way, the user may indicate only the singular

for nouns, the masculine singular for adjectives, and the infinitive for verbs. He may also select documents containing all of the word's synonyms, even at the periphrasis level, and all of the more specific expressions of meaning. The user is thus able to perform not only "textual" but also "conceptual" searches.

Without such a possibility, automatic seaching of juridical texts would not have any serious usefulness unless one had wanted to limit the search system to the use of conventional descriptors with which any type of document on file is manually classified. One would thus give up the more typical advantages of automatic searching which can be appreciated in the fullness of its extraordinary "chances" only when the searcher is able to freely probe the document's full text and when the burden of a prior manual classification of the documents has been eliminated. One must, in fact, consider that the documents on file in the Electronic Data Processing Center contain not only identifying indicators composed of precise dates and figures or invariable words, as in the documents of all the other electronic centers but, above all, an articulate and not brief discourse, in perfectly natural language, and therefore without any constraint because of document design. The documents are rich in words without any appreciable variation in the complex sense of the discourse itself, with diverse other words completely different from a literal point of view and having only conceptual affinities. The language used in juridical documents, as a matter of fact, even when it refers to typically legal notions, does not make use of necessarily constant terms (as for ex-

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ample the language of exact science), but is capable of an often considerable plurality of expressions. Thus, for example, if oxygen can be indicated in chemistry solely by that word, or by its symbol O_2, in law one can say "contract," "convention," "accord," "deed," "will," "agreement," or "transaction," depending on the case at hand.

Further, this phenomenon cannot be attributed to the caprice of jurists who comment upon the laws, but should be assigned in the first place to the legislators themselves, the written formulation of whose ideas is often completely unforeseeable.

In this respect, it is enough to reflect that, in the introductory divorce law in Italy, universally known under this name, the word "divorce" is completely lacking. An analogous phenomenon is found in Law n. 300 of May 20, 1970, known by all as the "statuto dei lavoratori" (laborers' statute), but in which it would be useless to look for this expression.

User Preparation as an Optimal Means of Neutralizing Inconveniences of the System

Even though the automatic research system today in use at the Center has been perfectly operative for 2 years with overall satisfactory and especially encouraging results for the future, it is not free of certain drawbacks, the more serious of which is so-called "noise"; i.e., the risk of retrieving documents which are not pertinent when searching exclusively on the basis of barely selective words.

Many drawbacks can certainly be eliminated as the system it-

self is perfected. Others can only be avoided if whoever sets out to perform a search on the terminal has the patience to become familiar with its use in order to acquire not so much the knowledge of the practical details of typing at the terminal keyboard as the fundamental principles on which automatic search strategy is based. These principles are outlined above.

These rather simple principles may be acquired in a few hours of conversation with an instructor during the courses conducted for this purpose at the main office of the Court of Cassation or through reading the special "Instruction Manual for Use of Terminals," published by the same office and indispensable to a realization of the possibilities and limits of the Court of Cassation computer. Nevertheless, the number of persons inclined to receive such instruction is small.

The suggestion of automation sometimes has the effect of suggesting that even the user is required to behave like an automaton. On the contrary, use of the computer in the research system adopted by the Court of Cassation requires a user sufficiently prepared to understand one simple but fundamental truth: in performing automatic searches in the field of juridical documentation, better results are obtained when one possesses a good deal of imagination and logic. These are more important than a great knowledge of mathematics or electronics--which do not help at all! Of course, an elementary knowledge of legal terminology would be very helpful when using this system.

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