

# Police Governance :European Union Best Practices



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## Best practice 1: Community policing

### Introduction

Over the past three decades, community policing established itself internationally firmly as the dominant paradigm of democratic policing. Within the European space, the UK played a leading role in defining the key principles of community policing while other countries of continental Europe progressively followed its footsteps during the eighties and after.

Community policing has been concomitant to three trends: a) political power devolution to sub-state levels of government in EU countries, b) a societal push for more local ownership of neighbourhood policing, and c) a new broader vision and understanding - largely driven by academic studies - of security as including notions of prevention, problem-solving, and urban renewal.

Community policing is foremost and above all a child of decentralization. Power devolution to local government and the redefinition of local communities or municipalities as autonomous from the state created an urgent necessity of coordinating state and municipal policies at local level and sharing responsibilities to reproduce order. The manage coherence, local security boards have been created in Europe often with correlative local security contracts as instruments of planning and consensus-building. Societal push for more ownership locally of policing has been answered by the development of mechanisms of local consultations. Finally, the more prevention moved to the core business of policing, the more new, non-traditional policing actors were invited to share responsibilities and partnering with the police to produce security locally, including civil society.

In a context of decentralization and the correlative increasing role and resources of municipalities in a number of policies, community policing is being introduced in

Turkey since 2005. The intent of this fiche is to describe best practices and trends in local mechanisms of power-sharing in producing security – the horizontal dimension of community policing – and best practices with regard to a more vertical dimension: consultations with communities on the one hand and how local policing relates with national police plans, standards, and support services, on the other hand.

### Community policing: sharing responsibilities locally

#### *Local prevention boards*

The combination of the broader view of security as including prevention and decentralization has radically changed the context of policing. The decentralization law in France, for instance, identifies territorial communities as, *inter alia*, regions, departments, municipalities) but do not establish a hierarchical relationship between them. In other words, regions and municipalities are as free and autonomous administrative (not political) agents empowered to make decisions under national law in the fields of polices they are entrusted with. Given the fact that important policy fields for prevention were decentralized at regional or municipality level, the necessity to coordinate locally became an imperative of decentralization and the *prefet's* role changed mainly to one of an arbitrator or facilitator of transversal planning.

To produce coherence across multi stakeholders, new platforms or organs have been established: *Local Council of Security and Prevention of Delinquency* (LSPD) in France, *Crime and Disorder Reduction Partnership* (CDRP) in the UK, *Municipal Consultative Council of Prevention and Security* in Belgium. These organs are mandatory in the UK at local government level while France and Belgium have adopted a more pragmatic policy in this regard. According to the 2007 French law on local government, for instance, LSPD are

mandatory only for municipalities with a population over 10'000 inhabitants or those with a "sensitive zone".

In the early days of community policing, the chair of the local partnership organs was attributed to the representative of the central state, the *Préfet* in the French case. Over time, however, the chair shifted hands. In France, LCPD are chaired today by the mayor. In Belgium, these organs are also chaired by the head of local government, the *bourgmestre*. In the UK, the CDRP are chaired jointly by the police and the local authorities (usually local council).

As a rule, these organs reunite at the same table three colleges or tiers: representatives of the state, representatives of the local government, and representatives of civil society. The participation of civil society derives from two facts: civil society is viewed as an important and resourceful actor in the field of prevention and it represents community interests. In France, civil society organizations are co-opted by the chair based on relevance criteria in the local prevention landscape. While initially civil society was only invited to observe the work of the LCPD, they stand on the same footing today as the two other colleges.

#### *Local Security Contracts*

The local dialogue on prevention issues is meant to result in formal agreements. In France, so-called *Local Security Contracts* organize horizontally the collaboration between local stakeholders. Similarly, in the UK, the *Crime and Disorder Reduction Partnerships* are three-year strategic plans agreed at local board level. Four-year plans called *Local Security and Prevention*

*Contracts* or *Strategic Action Plans* are the rule in Belgium. In this sense, local security boards are not consultative bodies but, given the distribution of power, real decision bodies with contracting powers.

Local security contracts or action plans are mandatory only in the UK. France has adopted a more pragmatic approach and recommends drafting local contracts only on a need basis. A similar facultative formula has been adopted in Belgium. The reason is the following. Local Security Contracts had proliferated in the nineties in France, reaching quickly the total number of 500; however an evaluation revealed that 2/3 of Local Security Contracts were found to be sleeping only a few months after their signature. Today, only insecurity-ridden municipalities and urban areas with "sensitive" zones are encouraged to design Local Security Contracts.

#### *Security and urban planning*

A robust tendency of France and Belgium views Local Security Contracts as key component of the more encompassing framework of *urban planning and renewal*. Urban policies and prevention policies had different historical and institutional origins, but started to converge in the last decade as insecurity appears clearly correlated with urban social and economical marginalization. France Local Security Contracts of the latest generation are generally incorporated into encompassing urban renewal contracts under the leadership of the Inter-Ministries Committee of City (*Comité inter-ministériel de la ville*). Local Security Contracts are often drafted in the framework of *Social Cohesion Urban Contracts* (SCUC) and cover their basket entitled "Citizenship and Prevention of Delinquency". In 2009, there are 467 of such urban contracts in France.

The same broader integrative vision of urban planning and crime prevention is at work in Belgium. The originally distinct Local Security Contracts and the Prevention Contracts have been merged into single *Security and Society Contracts* or, as they are also called, *Strategic Plan for Security and Prevention*. To sign of contract of this type with the federal state in Belgium, municipalities must demonstrate the existence of a robust above-average crime level and a socio-economic marginalization of at least 20% of their population.

*Methodologies of local prevention planning and consultations*

To produce local prevention plans, a number of EU states have worked out a two-step process based that has become a best practice. The so-called diagnostic phase includes an analysis of criminality and incivilities, a review of existing prevention practices, and a gap analysis; a goal setting and planning phase follows with, at its core, the design of an action plan (to be converted in “security contracts”). Action plans are expected to be *project-based*, define clearly objectives and provide quantifiable indicators for future measurement of progress. These requirements have legal footing in the UK (Crime and Disorder Act of 1998) while, in France and Belgium, they are required only by administrative “circulaires” of the Ministry of Interior. Based on extensive benchmarking, detailed methodological guidelines were issued by a government research institute in France (the *Guide de la Sécurité de Proximité*) in the nineties. A recent *circulaire* of the Minister of Interior, dated December 4, 2006, issued detailed recommendations for the elaboration of a security contract that are very similar to those prescribed in the Guide of Proximity Security a decade ago.

Given the relative complexity of the methodology as well as to ensure the development, coordination and follow-up of

The municipality of Venissieux (France):  
Example of a Local Contract of Security  
(2008-9)

Axis A: Strengthening the piloting committee

- Optimizing the functioning of the Local Committee of Security and Prevention of Delinquency
- Develop the Public Services Points (meant to substitute a logic of information sharing to joint responses and action)

Axis B: To know better the local situation to improve its treatment

- Establish a local observatory of public order
- Fight against the « law of silence » and the acceptance of insecurity

Axis C: Optimize services for a better efficiency (regroup together services; adapt municipal police action to citizen demands; strengthen social mediation offices, especially in public schools)

Axis D: Take into account authors of public disorders

- Sensitize the authors of public disorders
- Develop prevention activities and alternatives to incarceration
- Treat adequately difficult situations
- Prevent by reinsertion
- Reinforce victim support (with a social worker at the police station)

Axis E: Develop situational prevention

- Create a local commission of situational prevention to oversee urban planning
- Provide security for vulnerable locations such as parking transport, etc. and develop video surveillance

the Local Security Contracts, a Minister of Interior *circulaire* in France recommends the

establishment of a *Coordinator* position of the Local Security Contract. The Coordinator reports to the Local Council of Security and Prevention of Delinquency. In Belgium, Local Security Boards are supported by “*fonctionnaires de prévention*” or “prevention civil servants” who manage the daily business of the Contracts.

*Consultation* with local communities is a pillar of community policing and an essential component of the “*diagnostic*” phase of a Local Security Contract. The UK has a statutory requirement for a special consultation mechanism. Following a wave of riots and the recommendations of the subsequent Scarman report, the Police and Evidence Act of 1984 indeed requires that *Police Consultative Groups* are established. Renamed recently *Community & Police Engagement Groups* (CPEGs), these committees are formed by local residents and are characterized by a deliberate *over-representation* of those marginal groups who interact more frequently with police. These CPEG constitute the primary unit where consultation takes place systematically in the UK and provide the structure to enable local residents to regularly be consulted.

CPEG are not linked exclusively to Crime and Disorder Reduction Partnership but are meant to play a role in broader policing consultations. They are also an avenue for local Police Authorities to consult residents when designing local Strategic Policing Plans and to improve neighbourhood policing locally.

CPEG do not have an equivalent in France or Belgium where consultation on policing is much more limited in scope and much less formalized. Local Police planning and coordination in France is not subject to public consultation and takes place in a parallel closed structure which runs through the *Department Security Committees*, headed by

the *préfet* or his senior advisor (see the figure 1 in annex 1 of this fiche). It should be noted however that mayors are members of these Department Security Committees.

While consultation with residents is recommended, neither a formal mechanism nor a methodology is prescribed by administrative *circulaires* in France. The modalities of consultation are entirely left to the initiative of local prevention boards. While the governmental research institute IHESI had formulated guidelines in the late nineties on how to consult communities, this is only viewed as best practice and, in reality, consultation appears limited, not systematic, and often using unreliable methodologies. Sound methodologies of local consultation should be seen as a key feature of governance as poorly performed consultation result in distorted and biased image of the public expectation and image. Experience shows that so-called “hard-to-reach” marginal groups who have frequent interactions with the police are often under-represented in formal consultations. This is what the UK has attempted to correct with the creation of the CPEG and the requirement to over-represent hard-to-reach groups.

In all countries, *local security plans* are structured similarly. They have two main sections. One part dedicated to the diagnostic, review of existing preventive activities and gap analysis; a second part details the projects, their objectives, the actors involved, responsibilities and indicators of achievement and measurement. This second part forms the basis of the contractual relationship between stakeholders formalized in the *Local Contract of Security*. The local Coordinator is then responsible for producing follow up reports and coordinating the activities agreed in the contract.

## Community Policing and National Plans of Prevention

### *Definition of priorities at national level: Inter-Ministerial Boards*

Prevention of delinquency being a cross governmental issue and cutting across sectorial policies, EU States have established inter-ministries boards to define national priorities in this matter. The National Crime Reduction Board (NCRB) in the UK is the highest-level forum for driving forward a coordinated, cross government, approach to crime reduction. Its role is to oversee and monitor delivery of the so-called Public Service Agreement (PSA) *Make Communities Safer* that specifies the national goals in terms of prevention. PSA have been introduced in 1998 by the UK Government to define services expected by ministries and enhance their accountability. The NRCB leads, supports and, where necessary, challenges local delivery. It should be noted that the performance management system of local police services (see Best Practice 2 and 3) incorporates indicators streamlined with the objectives agreed in the *Make Communities Safer* PSA and at NCRB level.

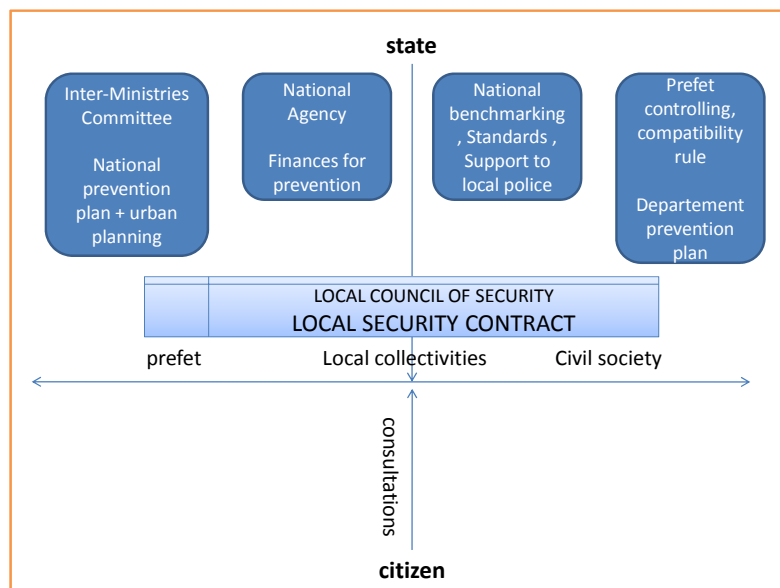
Similarly in France, an Inter-Ministries Committee for the Prevention of Delinquency chaired by the Prime Minister and assisted by a General Secretariat chaired by a *Préfet* is in charge of defining national priorities in the field of prevention of delinquency.

The UK National Crime Reduction Board is chaired by the Home Secretary and, to reflect its broad remit, includes:

- The Attorney General; Secretaries of State and Ministers for Justice; Communities & Local Government; Work & Pensions; Health; Children, Schools & Families; HM Treasury and Business, Enterprise & Regulatory Reform
- Representatives of the Home Office including the Minister for Policing, Security and Community Safety, the Parliamentary Under Secretary of State for Crime Reduction and senior officials
- Police representatives including the Commissioner of the Metropolitan Police, President of Association of Chief of Police and senior Association of Police Authority representation.
- Chair of the Local Government Association and representatives for victims and the voluntary sector
- Representatives from different agencies across the Criminal Justice System.

Figure 1 shown on next page presents graphically the French case of community policing and the constellation of state (national and territorially deconcentrated) agencies involved in designing standards and controlling implementation locally.





*Figure 1 representing the vertical and horizontal mechanisms in local prevention programme definition in France*

#### *Access to funding*

As prevention is increasingly seen as one essential element of urban renewal and national/federal funding are made available for local solutions when they fit with national priorities. Specific financial baskets are usually entirely dedicated to local plans for the prevention of crime.

In Belgium, for instance, Local Security and Prevention Contracts are “vertical” conventions between local governments (municipalities) and the federal government and mean access to federal funding. A similar mechanism exists in France. Apart from national funding for urban renewal through so-called Urban Contracts of Social Cohesion, separate specific national funding are available for Local Security Contracts upon meeting some conditions. If a project fits within the National Prevention priorities defined by the Inter-Ministerial Committee for the Prevention of Delinquency, and declined in the Departmental Prevention Plans, municipalities with a Local Security

#### **National funding mechanisms for local crime prevention projects (Belgium and France)**

Between 2002 and 2006 the Belgian federal government allocated 33 million of Euro to 73 Local Security and Society plans. Criteria for application were: a) a city of 60'000 inhabitants or more, b) a crime rate for a specific crime over the national average and c) a socio-economic situation, in particular an earning per resident below national average

In France, national funds available for local prevention projects are run by the National Agency for Social Cohesion and Equality of Opportunities and amounted to 45 million Euro in 2008 and 60 million in 2009. Projects must fit in the national priorities defined by the Inter-Ministerial Committee for the Prevention of Crime chaired by the Prime Minister.



Contract or an Urban Contract of Social Cohesion can apply for additional funding from the National Agency for Social Cohesion and Equality of Opportunities. The *Préfet* can also use these funds in support of the departmental plan for the prevention of delinquency. The National Agency manages the funds for prevention that belong to the Inter-Ministerial Committee for the Prevention of Delinquency. Technically, the fund is alimeted by a percentage of traffic fines and budget of participating Ministries.

*Coherence with national planning*

With this funding mechanism, the central government is able to influence indirectly the content of local prevention plans. A further mechanism to control what local municipalities do in matters of prevention is the departmental plan of prevention. *Department Councils of the Prevention of Delinquency* have been established in France. Headed by the *préfet*, with the public prosecutor and the president of the *Conseil Général* (region) as co-vice-presidents, these plans decline prevention activities in the department based on the national guidelines issued by the Inter-Ministries Committee for the Prevention of Delinquency. These Department Councils exercises surveillance on the local use of national funding for

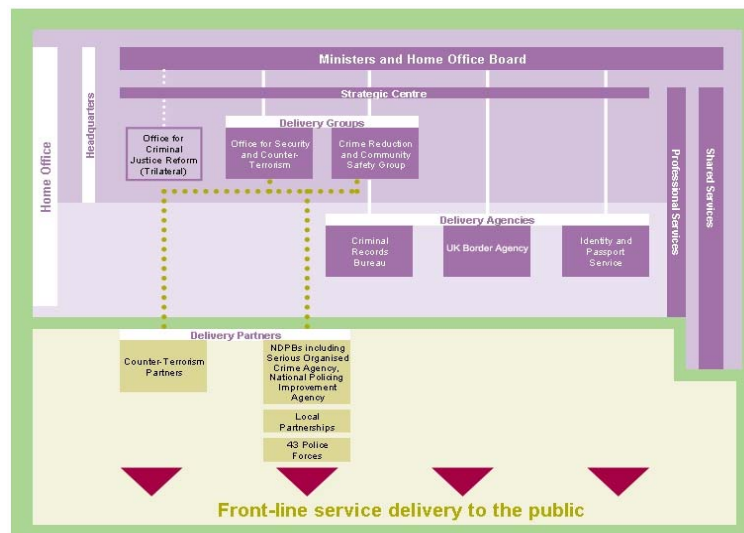
prevention and on Local Security Contracts. They control “negatively” so-to-speak that Local Security Contracts are not in contradiction with national priorities. The *préfet* is entrusted with the power to oppose his veto to prevention projects that are not compatible with national priorities.

The French *Préfet* and the Department Council are also controlling the use of national funding. In Belgium, a robust follow-up mechanism has been established by governmental decree to audit the performance of Local Contracts of Security and their expenses. The mechanism includes penalties if objectives agreed upon formally in the Contracts are not met.

*Knowledge management: between state responsibility and municipal associations initiative*

An important aspect of the mechanism set up by EU countries to support local police, NGO, and authorities in drafting prevention plans is the creation and development of a *national capacity* for knowledge management. Local police services do not have the resources to manage knowledge by themselves. Apart from standard definition and goal setting, knowledge management of prevention best practices is seen as a national responsibility

**Figure 2. Organizational chart of the Home Office (UK)**



In Belgium, a section of a Directorate in the federal police is in charge of assisting local authorities in developing and evaluating local plans of prevention.

In the UK, one of the two strategic groups maintained by the Home Office is the Crime Reduction and Community Safety Group, which *inter alia* is in charge of elaborating standards, managing knowledge, and identifying and defining best practices in local policing, including prevention and Crime and Disorder Reduction Plans (see organizational chart in Figure 2 shown above). The Group maintains an impressive website as knowledge management platform offering information on all kinds of prevention and community safety measures, best practices, as well as various national guidelines.<sup>1</sup>

In France, the involvement of the national state in knowledge management for local community policing seems less developed than in the UK. The 2006 created General Secretariat of the Inter-Ministerial Committee of the Prevention of Delinquency has yet to develop a benchmarking capacity. While the government National institute for Higher Studies of Security (*Institut national de hautes études de sécurité*, INHES, formerly known as IHESI) has played a critical role in introducing community policing and designing the first textbooks and guidelines in France, they have stepped back and seem to concentrate less on community policing than before. For knowledge management in preventive programmes, France relies currently mainly on the EUCPN (EU Crime Prevention Network) that was set up in May 2001 by an EU Council Decision to promote crime prevention activity in Member States across the EU, and to provide a means through which valuable good practice in preventing crime, mainly "traditional" crime, could be shared.

<sup>1</sup> Accessible with the following URL:  
<http://www.crimereduction.homeoffice.gov.uk/cpindex.htm>

### *EUCPN*

The EUCPN, to which Turkey has a status of observer, provides also funding for security development projects. In the 2007-2013 framework programme, funding are available for projects in prevention of and fight against crime providing support to activities under Title VI (EU Treaty) regarding all types of crime. The target group comprises public bodies dealing with law enforcement, crime prevention and the protection of victims and witnesses, as well as public and private bodies dealing with related matters.

### *European Forum of Urban Security*

“A European network of [300 local authorities](#) established in 1987 in Barcelona, on the initiative of Gilbert Bonnemaïson, former Mayor of Epinay-sur-Seine, and supported by the Council of Europe. Our network aims to strengthen crime reduction policies and to promote the role of local authorities in national and European policies. We work on all major issues in urban safety and security and we build up links between European local authorities through practices, information exchanges, cooperation and training. We also build up links between local authorities and the national, European and international levels. We promote the role of local authorities through making the most of the results of our programmes, projects and research.”

*Extract of self-presentation of the EFUS*  
<http://www.fesu.org/index.php?id=6>

Reflecting their increased responsibilities in policing and crime prevention, municipalities in Europe have also organized themselves horizontally at a national and European level to exchange best practices in crime prevention and security issues. They constituted the *European Forum of Urban Safety* whose core mission to share best practices across European local

governments. Municipalities of 6 EU countries participate to the European Forum.

## **Police governance**



## **Police governance**

**Table 1: Community Policing: EU guidelines**

	<b>Bodies and agencies</b>	<b>EU standards (with emphasis on French system)</b>
horizontal state/local communities/civil society coordination and planning	<b>Local Security (and Prevention) Council (municipality/district level)</b>	<p>chaired by mayor</p> <p>decision body</p> <p>power to contract</p> <p>aims at coordinating activities of local stakeholders to produce coherence</p> <p>mandatory only for municipalities with specific socio-economic conditions or size</p> <p>inclusive, with civil society as equal partner</p> <p>statutory requirement to consult citizen</p> <p>draft Local Security Contract based on standard methodology</p> <p>establishes secretariat to follow-up with Local Contract of Security</p>
	<i>comment</i>	<p>police only one partner among others, robust local coordination and local cross-actors planning, local authorities in center of process</p>
citizen consultation	<b>Community &amp; Police Engagement Groups (CPEG)</b>	<p>exist in UK</p> <p>consultation through CPEG defined in primary law (UK)</p> <p>main channel to consult communities</p> <p>statutory requirement over-representation of minority, vulnerable groups</p>
Government national + department	<b>Inter-Ministries National Committee on prevention of delinquency (and General Secretariat)</b>	<p>establish national plans on prevention of delinquency</p>

knowledge management, standard setting, support services

integrate cross government policies  
linkage to urban planning  
has a basket of resources to finance local security plans

comment

robust cross-government dimension, integration with urban planning, and political national goal setting

**Department/governorate Committee for the Prevention of delinquency**

chaired jointly by *Prefet* and Prosecutor, in each department

insure compatibility of Local Security Contracts  
determine Departmental Plans on Prevention of Delinquency based on the national plan  
coordinates Local Security contracts  
review use of national funds by Local Council of Security

comment

national coherence through mechanisms such as national funds, compatibility review, coordination role of *prefet*

**Community Safety Group (UK)**

set standards

identify best practice  
knowledge management, with website and virtual library

provide consulting services for local authorities/police to draft local security contracts and improve performance (see also the UK National Agency for Performance Improvement)

comment

strong knowledge management and mechanism for service improvement support

quality review

**Review of performance**

in the UK, the internal audit commission (HMIC) is responsible of reviewing performance of neighbourhood policing (community policing) based on general quantitative indicators of impact on the satisfaction of the public, etc. (see best practice no 3)

most data to review performance comes from the British Crime Survey (see best practice no 3), collected by the Research, Development and Statistics Department of the Home Affairs

scientific base for evaluating quality; citizen satisfaction in the center of evaluation

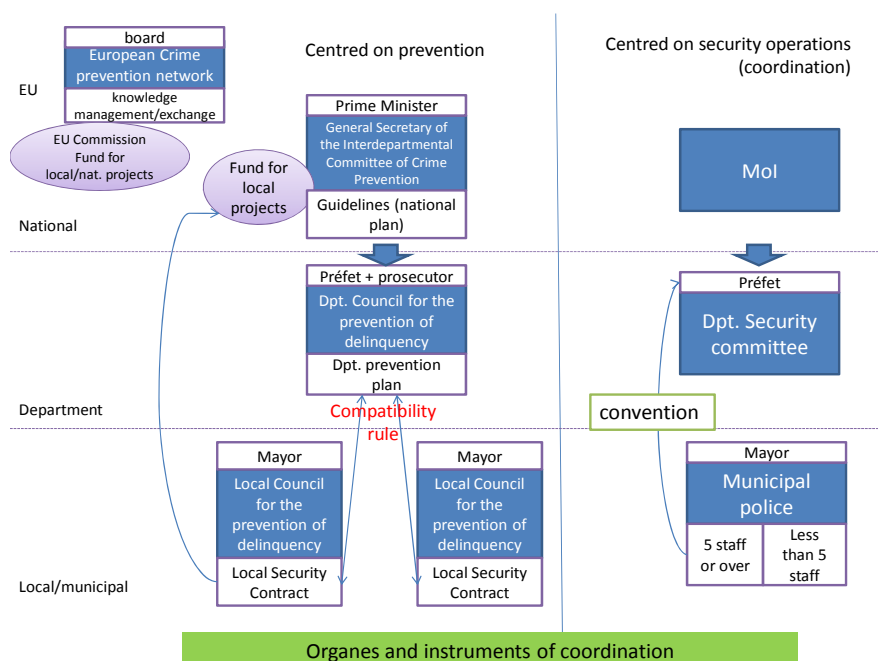
*comment*



## Annex 1

Figure 3 below represents graphically the dual local coordination mechanism in prevention/community policing and strictly operational matters in the French case. It should be added that a third local mechanism of coordination (not shown on the figure) exists in France. So-called Local Groups of Treatment of Delinquency (LGTD), chaired by the public prosecutor, can be established temporarily and on an *ad hoc* basis to provide a coordinated approach and a short-term response to specific crime patterns.

**Figure 3: Coordination in prevention and in policing in France**



### Web resources: Community Policing

General Secretary of the Inter-Ministries Committee for the Prevention of Delinquency (France), [http://www.sgcipd.interieur.gouv.fr/prevention\\_de\\_la\\_delinquance-h38.html](http://www.sgcipd.interieur.gouv.fr/prevention_de_la_delinquance-h38.html)

Crime Reduction Website, Home Office (UK), <http://www.crimereduction.homeoffice.gov.uk/>

Standing Secretary of Policy of Prevention (Belgium), <http://www.vps.fgov.be/>

European Crime Prevention Network (EU), <http://www.eucpn.org/funding/index.asp>

European Forum for Urban Safety, <http://www.urbansecurity.org/index.php?id=4>

Network of Community Safety Officers (UK), <http://www.community-safety.net/about.htm>

## Guidelines

### Best practice 2: Auditing internally the police

#### Introduction

Internal audit agencies are a traditional instrument of control of the civil authority over compliance of the administration. In France, their existence dates back from the *Ancien Régime* and Necker is credited with creating the General Inspection of the Administration in 1781.

Audit agencies can be seen as the *second level of control* exercised over the public administration after the civilian authority (Minister and his representatives as well as local authorities in decentralized levels of government). Internal audit agencies are *policy- and organization-oriented* while individual misconduct are generally investigated by other units. Audit agencies play also a *preventive* role in advising political authorities on potential harmful policies while the role of administrative courts in this regard is *a posteriori* and takes place after their enactment.

Besides administrative compliance control, audit agencies play an increasing role advising the Minister in public policies, management and performance assessments as well as in evaluation of public policies. Another tendency observed in Anglo-Saxon countries is to view auditing agencies as *watchdog* of the public. The “fierce public face” philosophy of audit agencies in the UK has had consequences on the degree of independency and publicity given to audit reports in the UK, as we will see.

The following criteria might help comparing audit mechanisms and the governance model they embody in EU countries:

- ✓ *Independency.* Independency can be measured by the degree of autonomy of the audit agency with respect to the police, including its highest hierarchy and the political level. Indicators of independency can be measured by the nomination procedure of the head of the agency, reporting lines, and the possibility given to the audit agency to initiate an audit without approval of the Minister or the police hierarchy. Another more informal ingredient of independency is the composition of the audit agency. To recruit non police staff in police inspection is a tendency to allow managerial knowledge to flow into policing as well as to achieve more independence.
- ✓ *Strength.* Closely related to independency, strength can be measured by the investigation powers as well as the authority of the recommendations the audit agency issues. Further, indicators of the strength of the mechanism are measured by the number and quality of staff and relative budget of the audit agency.
- ✓ *The scope of coverage (or coherence).* Critical questions are whether some police agencies fall outside the audit mechanism and, if they do, whether these agencies are covered adequately by another mechanism from a civil oversight point of view. Scope includes the fields covered by the mechanism: policies, organization, individuals?
- ✓ *Objectivity and fairness.* Objectivity and fairness are indicators of the quality of the oversight. Objectivity is related to independency but also to the methodology used in evaluation. This issue has become central with the increasing role of audit agencies in public policy evaluation as well as performance assessment.
- ✓ *Transparency:* modern public administrations operate openly under public scrutiny as far as their overall performance is concerned and the police does not derogate to the rule. Transparency can be

measured by the degree of publicity given to the methodology of auditing; but even more important is the publicity given to performance reports of police forces. The UK shows the most robust tendency to view auditing as a *public-facing exercise*. Auditing is not understood as practitioners dialogue or a peer-review exercise operating under closed doors to increase performance. While auditing is a controlling tool in the hands of the Minister to insure legal, administrative and financial compliance, it is also conceived as a tool to review more managerial issues such as good management and performance. As tax-payer, the public is considered to have a right to be informed about the performance of its police and auditing is becoming a public-facing exercise.

## EU benchmarking (France and Britain and Wales)

### Introduction

In Britain and Wales, two distinct auditing agencies matter most for policing: His Majesty Inspectorate of Constabulary (HMIC) and the Audit Commission. The first is an emanation of the police law, while the second is an emanation of the local government law. The Audit Commission comes into play as Police Authorities in Britain and Wales are governed by the local government law and are subject to review under this legal framework. The Audit Commission focuses mainly on local government spending under the Best Value (or productivity) principles but may include assessments of the Crime and Disorder Reduction Partnerships (CDRP, see best practice 1) as these partnerships involve Police Authorities. By statutes, HMIC inspects and evaluates the performance of police agencies, including for instance local police forces and military police, in addressing the Home Office national policing

plan and standards. There are no police force in Britain and Wales that are not subject to audit by HMIC.

Similarly to Britain and Wales, the Ministry of Interior and local governments (communities) have different auditing systems in France. But unlike the former, the French Ministry of Interior system distinguishes between the Ministry audit (*Inspection générale de l'administration*, IGA) and the police internal audit (General Inspection of the National Police, known as IGPN). Furthermore, given the dual police system in France, a mirror auditing organization exists for the gendarmerie in the Ministry of Defence. The current integration of the gendarmerie in the Ministry of Interior may not end this complex situation as, under the draft law, gendarmes retain their military status and may therefore have a separate disciplinary regime. Given its role in misconduct and disciplinary investigation, the Inspection of the Gendarmerie it is likely to survive the reform. To add to the complexity, local municipal police are not covered by the IGA or IGPN and fall under the local government audit system. The *Chambres régionales des comptes* audit financially local governments. As far as performance is regarded, local governments may decide to create their own territorial general inspection.

### Independency

#### *Reporting line*

HMIC reports to the Home Secretary and the head of the HMIC – the Chief Inspector of the Constabulary - is the principal professional policing advisor of the Home Secretary. The mission of HMIC is prescribed by law (Police Act 1996), and art. 54 says: “The inspectors of constabulary shall inspect, and report to the Secretary of State on the efficiency and effectiveness of every police force maintained for a police area”. The Home Secretary may give specific missions to HMIC or at any time

require that an inspection takes place. Similarly, the head of IGA in France reports to the Minister of Interior, but he can be ordered an inspection by the President of the Republic or the Prime Minister.

#### *Nomination*

The Head of HMIC is nominated by the Crown based on a recommendation of the Home Secretary. A recent initiative by Government to enhance parliamentary accountability translates into the fact that a range of top public appointments, including the Head of HMIC (but not the other inspectors) has to appear before the Home Affairs Committee prior to employment. The “hearing” is however non-binding and the Minister can overlook the advice of the parliament. This nomination procedure gives the Chief Inspector arguably a degree of independency not matched in France.

In France, the Head of the IGA may not have parliamentary backing but still his nomination procedure gives him an enjoyable degree of independency vis-à-vis the Minister of Interior. He is indeed nominated by a decree of the President of the Republic and the Council of Ministers based on a joint recommendation of the Prime Minister and the Minister of Interior.

#### *Staff*

While most inspectors of HMIC are former senior police officers, there is a tendency to recruit increasingly senior managers from the private sector. 2 out of 5 higher inspectors have non-police background and the official *Green Paper* on the police reform stresses the Government’s intention to increase the percentage of non police officers in HMIC. New public management philosophy being advocated by the British government, private sector managerial knowledge is hoped to flow into auditing and policing. Another rule

of HMIC is that inspectors are not allowed to inspect their former force or forces that second them to HMIC.

In France, IGA has a statutory requirement for 2 inspectors to have a senior police background. The great majority of IGA inspectors however are not police officers. While this fact ensures a relative high level of independency of audits, it should be noted that the same can not be said for IGN and IGPN. Those internal agencies are entirely staffed with police or gendarmerie officers. The tendency of HMIC to hire private sector managers is not duplicated in France as inspectors are all coming from the civil administration.

The tendency for joint evaluations needs to be factored into the analysis of independency. In France as in the UK, police audit agencies increasingly conduct inspections jointly with other inspectorates when cross-ministerial interests come into play. French IGA and IGPN, for instance, conduct from time to time joint evaluations. This, we could argue, enhance the degree of independency of audits by creating mixed audit teams with various professional backgrounds.

#### **Scope and Coherence**

##### *Organizational audits versus individual inspections*

First of all, audit agencies in Britain and Wales and France cover slightly different domains. While IGA focuses on policies, IGPN/IGN inspect police forces organizationally as well as are entrusted with internal investigation of individual misconduct. Britain and Wales adopted another model. HMIC is responsible for policies and organizational audit while investigation misconduct is left to a separate institution, namely the Independent Police Complaints Commission (see best practice 4).

Second, as mentioned earlier, all Britain and Wales police forces, including the military police, local police, revenue and custom, are audited by *one single agency* and subject to the same rule of auditing, namely HMIC's. In France, the system of audit is highly complex: local municipal police are not covered by IGA and the IGPN/IGN, while the French dual police system implies that police and gendarmerie are submitted to two different internal audit regimes. As mentioned earlier, the formal integration of the gendarmerie in the Ministry of Interior may not completely end this duality of regimes as far as disciplinary cases are concerned.

*Impact of multiple audit agencies on coherence*

A report drafted in the framework of the UNDP project (Lapprand report, 9 March 2009) pointed to the potential for miscarriage of oversight in the French case. Since IGPN reports to the Director General of the police, there is the theoretical possibility that an audit report is not brought to the attention of the Minister. In the British system, this scenario is not possible.

There might also be territorial disputes between audit agencies regarding responsibilities over organizational audits: an IGA or an IGPN responsibility? This kind of territorial dispute does not arise a priori in the Britain and Wales case as there is a single audit agency (HMIC) inspecting all police.

The French model of mixing organizational performance assessment with disciplinary assessment could be seen as a handicap as organizational performance assessment and individual assessment are governed by different sets of regulations and require different types of skills.

**Strength**

*Instruction powers over local police services*

In Britain and Wales, the Secretary of Home Affairs may use his statutory powers and instruct local Police Authorities to take a remedy action if unsatisfied with the Police Authority plan of action in response to an audit. In this case, he shall lay a report to the parliament on this matter (section 40 of 1996 Police Act).

In France, the Minister has authority over all deconcentrated services via the *Préfet* but his powers stop where the deconcentrated state ends. Local communities are autonomous administrative agents and are not inspected either by IGPN or IGA. *Prefets*, however, exercise a control over the legality of local community acts.

*Budget/Staff*

The yearly budget of the HMIC is about 20 million USD (running cost only, excluding capital investment budgeted in the Home

*General Inspection of the Administration (IGA) (France) in brief*

On October 1, 2007, IGA had 83 staff: 39 general inspectors, 25 first-class inspectors and 8 second-class inspectors as well as 2 general inspectors with specific missions.

In addition, 8 *Préfets* and one civil administrator are tasked with IGA missions.

2 inspectors are former senior police officers.

In 2007, 15% of the reports of the IGA



Office). The UK government has recently pledged to increase HMIC budget as the agency is taking more responsibilities in developing and maintaining the performance management system of the police (see best practice 3).

In comparison, the IGA seems much smaller. While it has 83 members, only 15% of its 2007 reports focused on policing. IGPN has about 155 staff members and two regional offices apart from the Paris headquarter, while the IGN has 55staff.

### Objectivity and Fairness: Method of audit

Methodology is a key element of auditing to ensure reliability and fairness. The UK has emphasized the necessity to elaborate a reliable monitoring system of the performance of police forces across the board (see best practice 3) and imported from the private sector analytical tools such as the co-called *Balanced Scorecard* developed by Harvard professors. While the development of the performance management system was formerly under the responsibility of a directorate of the Home Affairs, this responsibility has been recently given to HMIC to increase the independence of the methodology development. To develop the newest generation of performance management system, HMIC has consulted widely, including the public. Apart from a new monitoring system of criminality rates elaborated by the INHES (government research institute), there are no known efforts to create a comparable performance management system for use by either IGA or IGPN/IGN in France.

The fairness of the heavily quantitative method of the performance management system has been challenged by practitioners, academics, and Police Authorities. Complementary qualitative assessment will be promoted by HMIC. To acknowledge the

increasing role of local Police Authorities in setting the agenda of policing locally under a community policing philosophy, local goals will be factored in the assessment analysis in addition to national goals defined at the Home Office (Police Plan).

### Publicity

Audit reports of HMIC are public (with few exceptions) and publically accessible from the website of the agency. Audit reports include baseline assessments of each of the 43 local police forces, so-called Best Value Reviews, compliance reports, computer information system reports, etc. Publicity is defined by law (Police Act 2006) which specifies that exceptions for publishing of portions of texts need to be motivated by national security concerns or risks of jeopardizing the safety of a person. This publicity is essential to the philosophy of the British Government to increase the public face of auditing and viewing it as a watchdog of the public.

By comparison, publicity in France appears to be very low. IGA reports are often confidential, while no reports from IGPN/IGN are public. Except for policies oriented IGA reports, auditing remains mainly a business conducted under closed doors in France.

### Conclusion

In the two-country comparison, the UK appears strong on most dimensions. With the introduction of pre employment parliamentary hearings, the Chief of HMIC gained in both legitimacy and independence. HMIC's recommendations are enforceable through the statutory powers of the Home Minister at local policing level. The growing importance of HMIC is measurable by the growth of the size of its budget. The increasing proportion of non police background officers in HMIC reflects the political will to allow the private sector management skill and competencies to flow into policing and to strengthen the

independence of the internal control mechanism. Methodologically, the UK has made considerable efforts to create an independent and objective performance management system and HMIC has taken the lead in developing the newest generation of performance management system. With its philosophy of a *public facing* administration, publicity has moved to the core of HMIC operating methods and organizational culture. With few exceptions, audit reports are public. Since all police forces in the UK are audited by HMIC, they fall under the same rule of auditing and publicity.

While evolving, France audit system is clearly more traditional and still viewed as a tool of the Minister to advise him on policies and control the compliance of his

administration. Performance management might not have the same weight as in the UK. The public face of IGA is limited and non-existent as far as IGPN/IGN are concerned. The national police and gendarmerie audit units do not operate under public scrutiny and – even more problematic - their reports may not reach the desk of the civilian authority. Local municipal forces operating under local communities responsibility fall under completely separate governance regime that may not include formal auditing. While methods of assessing performance of police are introduced in France via a government institute (INHES), they have not reached the level of sophistication of their UK counterparts.

## Annexe

**Table 2: Functions of internal audit agencies in comparison**

	Policy inspection + advice	Organizational performance inspection + advice	Individual investigation (misconduct)	Providing consultancy services for improving performance of local police forces	Maintains knowledge center for best practices in policing and prevention
France	IGA	IGPN/IGG			INHES (partially)
UK	HMIC (+ Audit Commission)		IPCC	National Policing Improvement Agency	Community Safety (Home Affairs Directorate)



**Table 3: International comparison: the degree of civilian oversight exercised by internal audit agencies**

<i>Domains</i>	<i>Indicators</i>	France	UK
<i>Independency</i>	<i>Reporting line</i>	IGA report to Minister of Interior; IGPN/IGN report to Director general	Reports to Home Secretary with some independence
	<i>Nomination of Chief</i>	Presidential decree + Council of Ministers for IGA Chief, on recommendation of Prime Minister and Minister of Home Affaires; Director General for IGPN Chief	Crown, after non-binding parliament hearing, on recommendation of Home Secretary
	<i>Can initiate inspection without approval of chief</i>	YES, but only IGA IGPN/IGN need instruction of director general	YES
	<i>Composition</i>	2 inspectors with senior police background	2 inspectors out of 5 with non-police background
	<i>Specialized in policing</i>	IGA: NO, the whole Ministry of Interior (only 15% of reports for policing) Yes for IGPN/IGN	.
<i>Coherence</i>	<i>Cover all police forces in the country</i>	IGA: NO, covers only police of MoI, not municipal police	YES, covers all police forces of the UK, including custom, military police, etc
	<i>Joint assessment with other inspectorates</i>	YES, including with IGPN/IGN, and in PAM	YES, including Audit Commission, Juvenile Commission, Judiciary commission, etc.
	<i>Status of reports</i>	IGA issues opinion, studies and recommendations to the Minister	
<i>Budget</i>			20'270'000 USD

# Police governance

## Objectivity and fairness

		(fiscal year 2006/7), excluding IT cost and HQ costs	
<i>Staff</i>	81 inspectors in IGA (but only 15% for policing); IGPN and IGN (no data)		
<i>Annual performance evaluation of police forces at local/depart. level</i>	(unknown)	Systematic for all 43 local police and other police forces with benchmarks, published in reports	
<i>Sophistication of methodology of annual performance review</i>	Unknown, not public	STRONG (using balance-scorecard, mainly quantitative indicators)	
<i>Evaluation based on public satisfaction</i>	NO, not systematically	YES, one of 6 fields of indicators measure public satisfaction with police service	
<i>Publicity of methodology of assessment</i>	NO	YES, elaborated with consultation of the public and the police	
<i>Publicity of all reports</i>	NO (only few thematic accessible IGA reports)  NO IGN and IGPN reports public	YES, including yearly performance for all 43 local police forces (exception for portion of reports with national security and jeopardizing individuals concerns)	

## Transparency

#### Web resources

General Inspectorate of Local Police (Belgium) <http://www.aigpol.be/en/index.html>

Her Majesty's Inspectors of Constabulary (HMIC),  
<http://inspectors.homeoffice.gov.uk/hmic/about/>

General Inspection of Administration (France),  
[http://www.interieur.gouv.fr/sections/a\\_1\\_interieur/le\\_ministere/organisation/inspection-generale-administration](http://www.interieur.gouv.fr/sections/a_1_interieur/le_ministere/organisation/inspection-generale-administration)

## Best practice 3: Assessing performance

### Introduction

In a context dominated by new public management philosophy in the British administration as well as budgetary pressures on Government, the British police could hardly resist demands for transparency of its own performance. The first quantitative police performance management system was introduced 15 years ago in the UK. It was preceded by studies on the satisfaction of the public regarding police services and their public image. The first survey was conducted in 1981; these surveys were commissioned by the Home Office systematically and on a yearly basis since 1988 already. The UK has taken a firm lead in Europe in performance management and, progressively, other EU countries are following its footsteps.

### The performance Indicators


In a significant departure from the past, Her Majesty Inspectorate of Constabulary (HMIC) has recently been entrusted with the definition of the third generation of indicators of performance. This role was previously attributed to the Police and Crime Standards Directorate (formerly named Police Standards Unit) of the Home Office.

In consultation with stakeholders, HMIC is designing a set of standard indicators of performance – called “Rounded Assessment” (RA) – which is intended to replace older systems, namely the Policing Performance Assessment Framework (PPAF) and its successor, the Assessment of Policing and Community Safety (APACS). The new RA is structured around five dimensions of policing, namely:

- Confidence and Satisfaction (see textbox)
- Local Crime and Policing
- Protection from Serious Harm
- Value for Money and Productivity
- Managing the Organisation


The objective of the exercise is multiple. It provides local police services and Police Authorities with a navigating instrument to measure progress, plan new action, and compare its own performance with similar forces. The system is accessible by individual police forces routinely.

The system provides HMIC with a



*Confidence and Satisfaction* indicator  
(dimension 1 of the RA)

These indicators are provided mainly by the British Crime Survey (see below) and, according to the RA methodology, the indicators will allow measuring both satisfaction of the public with everyday policing at neighbourhood level and more serious crime policing generally



performance control system, and the Home Office with a tool allowing the Minister to step in whenever performance deteriorates. When performance ‘outliers’ are identified, their cases are referred to the Police Performance Steering Group (PPSG) – a tripartite group that meets to review performance of police - for appropriate recommendation to the Home Secretary. If performance problems are not resolved promptly, the latter can then invoke his

statutory intervention powers to instruct local Police Authorities for remedial action.

Traditional reporting and measurement of police performance have focused on police activity or so-called *output* indicators. Elaborated on the philosophy that policing is a public service, the British performance analysis system focuses instead on *impact* indicators of policing (crime, feeling of insecurity, public satisfaction with police services). Productivity (or value-for-money) of police can be studied with the system by analyzing the relationship between inputs (budget, staff), activities and impact.

The standardized system allows comparing police forces and giving marks to their performance individually. Currently, HMIC assesses the performance of individual police forces with the following marks: Excellent, Good, Fair and Poor.

On the backdrop of a shift granting local Police Authorities with increased influence on local goal setting and defining local police plans since 2006, a more encompassing framework of assessment is currently under elaboration by HMIC. The framework will include qualitative evaluation and allow locally goals to be factored into the performance analysis.

### **International benchmarking**

The British performance management system and controlling is unequalled among police services worldwide, with the exception perhaps of Australia. To measure the performance of its police services, France, for instance, has introduced crime statistics and victimization survey indicators systematically only since 2007. Productivity indicators reported publically are limited to detection rates of its criminal investigation services. An elaborated and public-facing system as in the

UK is not in operation in France. The only publically available performance indicators of department police forces are levels of crimes and detection rates. They are published by the Observatory of Delinquency of the INHES.

### **International Crime Victimization Surveys**

So-called International Crime and Victimization Surveys (ICVS) are recognized as reliable way to measure a) victimization rates for a number of crimes, b) reporting rates to police, c) feeling of insecurity, d) attitudes, opinion and public expectations regarding police services. Initially elaborated and conducted by academics, ICVS have progressively been adopted by states to complement their own police statistics and monitor the public image of their police services. The first ICVS took place in 1981 in the UK and since 1988 these surveys are conducted under the name British Crime Surveys (see textbox) on an annual basis. France has started to do the same since 2007.

ICVS use representative sampling methods, are conducted through telephone interviews, and are using an international standardized questionnaire (or portion of it) to allow cross-national comparisons. On a number of dimensions analyzed by ICVS, police statistics have no equivalent. This includes the so-called grey criminality (crime not reported to the police or underreported), incivilities (infra-legal public order problems), as well as opinion and attitudes of respondents towards the police. ICVS have been conducted every four years since 1989 in a growing number of participating countries and the data has been stored in the United Nations Institute for Crime and Justice Research (UNICRI) based in Italy.

In 2005, with EU Commission funding, a consortium of 15 old EU states plus Poland, Hungary and Estonia conducted a crime and victimization joint survey. They were followed later by Bulgaria, Croatia, and Turkey. The survey analyses how citizens feel about their safety and reports citizens' concerns. It was the most comprehensive analysis of crime, security and safety ever conducted in the EU. 41,776 Europeans, interviewed in 2005, reported about their crime experience from 2004. In each country the sample consisted of a national sample of 1,200 persons of at least 15 years of age. A booster sample of 800 in each capital city made it possible to create comparative measures for major European urban areas.

Conducted by the Home office and its Research, Development and Statistics (RDS) section, the *British Crime Survey* serves several functions. It guides national and local policies on key indicators of performance, serves in strategic planning, and, being published online, provides transparency and guarantee publicity of attitudes of residents towards justice and police as well.

Since the British sample is 45'000 inhabitants and the sample is boosted for representativity in metropolitan London and its districts, it allows conducting reliable sophisticated analyses of police performance and resident's attitude locally as well. The British Crime Survey results are a key component of the performance assessment of local police forces conducted by HMIC.

### *The British Crime Survey*

The British Crime Survey (BCS) is an important source of information about levels of crime and public attitudes to crime as well as other criminal justice issues. The results play a pivotal role in informing British Government policy.

The BCS measures the amount of crime in England and Wales (the first survey covered Scotland as well, but now Scotland and Northern Ireland carry out their own crime surveys) by asking people about crimes they have experienced in the last year. The BCS includes crimes which are not reported to the police, so it is an important alternative to police records. The survey collects information about:

- the victims of crime
- the circumstances in which incidents occur
- the behaviour of offenders in committing crimes
- the satisfaction with police and justice services

The BCS is also an important source of information about other topics, such as people's perceptions of anti-social behaviour and attitudes towards the criminal justice system, including the police and the courts. The survey also looks at people's attitudes to crime, such as how much they fear crime and what measures they take to avoid it.

<http://www.homeoffice.gov.uk/rds/bcs1.html>  
(adaptation)

## Best practice 4: Complaint mechanisms against the police

### Introduction

In EU countries, a dedicated external independent mechanism to deal with complaints about police misconduct has become the rule over the past decade. The Commissioner for Human Rights of the Council of Europe published a recent Opinion recommending independent and effective determination of complaints against the police on March 12, 2009. The Opinion stresses that independent body dealing with complaints against the police embody in an ideal manner the five principles developed by the European Court of Human Rights for the effective investigation of complaints against the police (see textbox).

The main driver behind these new bodies is a resolute political will to increase the confidence of the population in the police by guaranteeing that complaints against the police will be dealt with total impartially. Independent or external dedicated bodies dealing with the matter are seen as critical tool of governance of the police. Striving to consolidate peace dividends and restore the confidence in the police after years of conflicts, Northern Ireland has taken a solid leadership in Europe in creating one of the first totally independent mechanisms dealing with all complaints about the police.

### Principles of complaints mechanisms

As a rule and historically, mechanisms for complaints against police misconduct in EU states have evolved in two directions: they

The European Court for Human Rights five principles for an investigation of complaints about the police engaging Article 2 or 3 of the European Convention on Human Rights:

**Independence:** there should not be institutional or hierarchical connections between the investigators and the officer complained against and there should be practical independence;

**Adequacy:** the investigation should be capable of gathering evidence to determine whether police behaviour complained of was unlawful and to identify and punish those responsible;

**Promptness:** the investigation should be conducted promptly and in an expeditious manner in order to maintain confidence in the rule of law;

**Public scrutiny:** procedures and decision-making should be open and transparent in order to ensure accountability; and

**Victim involvement:** the complainant should be involved in the complaints process in order to safeguard his or her legitimate interests.

Source: CommDH(2009)4, 12 march 2009, Council of Europe

tend to be more independent with every reform and their power or competencies have increased. There is a shift from simple “review” mechanisms to a mechanism that includes independent investigations powers and, in some cases, even independent prosecution power. Additional criteria of the complaints mechanism are power to regulate,



promptness, accessibility, and transparency. These principles set the modern framework in which new mechanisms of public complaints against abuses of the police are established in EU countries.

**Independence.** To deal with complaints against the police, EU states are shifting to dedicated external bodies. The minimal requirement for police self-investigation is that there are no institutional or hierarchical connections between the investigators and the officer complained against and there is practical independence. This principle is clearly strengthened and best served by the establishment of Independent Police Complaints Bodies (IPCB) situated institutionally outside the police and dealing exclusively with complaints against the police.

IPCB can have varying degree of independence. In the UK, the independence of IPCB is comparable to that of internal audit structures. The head of the Britain and Wales Independent Police Complaints Commissions (IPCC) or the Police Ombudsman in Northern Ireland are nominated by the crown on a recommendation of the Home Minister. The Home Minister does not interfere in their operation and investigations are initiated without formal approval of the Minister. In France, the degree of independence of the National Commission of Deontology of Police is arguably higher as all members are designated by the three branches of the government, namely the parliament, the executive and the judiciary (see textbox). In the Republic of Ireland, the three members of the Garda Síochána Ombudsman Commission are appointed by the President of the Republic on a nomination by the Home Minister and a resolution by both chambers of the Parliament recommending their appointment. Belgium has entirely separated the IPCB (the Standing Police

### Members of the National Commission of Deontology of Security

- ✓ The president,
- ✓ two senators, designated by the president of the Senate
- ✓ two MPs, designated by the president of the National Assembly
- ✓ one master-councillor, designated by the first president of the Court of Accounts
- ✓ one judge outside the High Court hierarchy, designated jointly by the first president and the public prosecutor of the High Court
- ✓ six personalities designated by the other members of the National Commission of Deontology of Security nominated by the President of the Republic
- ✓ one member of the State Council, designated by the vice-president of the State Council

Monitoring Committee) from any supervision by the executive. The Belgian IPCB is nominated by, and report, to parliament. The more the parliament is involved, the stronger the independency of the mechanism.

**From review or monitoring powers to investigation powers.** IPCB competencies vary somewhat in EU countries, but there is a discernable trend towards tasking these bodies with independent investigation power and capacities. Older generations of IPCB were entrusted with review or monitoring functions only. Typically, in the UK, their intervention begun only after the police self-investigation had been completed. Earlier generations of civilian oversight in the UK for instance reviewed the final report of investigating officers and, if they disagreed with the finding, could recommend and ultimately

direct that disciplinary proceedings be brought.

The latest generation of IPCB are mostly hybrid systems combining monitoring and supervision powers with investigation ones. Belgium established an external mechanism of this kind in 1991 already. In Britain and Wales, the shift to this type of IPCB occurred with the Police Act of 2002 when the Independent Police Complaints Commission for Britain and Wales replaced the defunct Police Complaints Authority. Northern Ireland established a Police Ombudsman with investigation powers one year earlier in 2001.

IPCB in Europe generally combine pragmatically review and investigation powers. Given the concern with high cost of external bodies investigating *all* complaints, IPCB are entrusted with discretionary powers to decide whether they investigate independently a case or rather collaborate with internal police services. Statutory regulations can define referral protocols where it is mandatory for the police to refer serious cases to IPCB (for the definition of serious cases, see textbox below for the Britain and Wales case) or, as it is often the case, all cases with injuries as a result of a police use of firearm. IPCB usually investigate independently complaints with allegations of a crime. Police internally investigate other less serious allegations. In Britain and Wales, Police Authorities are responsible for investigations concerning senior officers while the police chief is responsible for the investigation of other staff.

The mechanism for Britain and Wales distinguishes between four modalities of investigation based on the seriousness degree of the allegation involved in the complaint or the potential public impact of the case: a) independent investigation by

In Britain and Wales, the police must refer complaints and conduct matters that include the following allegations:

- ✓ Serious assault by a member of the police service
- ✓ Serious sexual assault by a member of the police service
- ✓ Serious corruption
- ✓ Criminal offence or behaviour aggravated by discriminatory behaviour
- ✓ Serious arrestable offences

IPCC, b) managed investigation, c) directed investigation, and d) local investigation.

In the Republic of Ireland, the Garda Síochána Ombudsman Commission operates with a similar scheme. It distinguishes between independently conducted investigations, supervised investigations, and local police investigations. The Norwegian Bureau for the Investigation of Police Affairs investigates all complaints with an allegation of crime, while the police investigate other complaints.

Northern Ireland went a step further in strengthening the independency of the mechanism. The Police Ombudsman conducts *all* investigations against police officers. All complaints are automatically referred to the office of the Police Ombudsman and no investigation against the police is self-investigated by police.

Another competency has been generally given to IPCB. All cases where a police intervention resulted in death or serious injury are automatically referred to the IPCB which can decide to investigate the matter whether or not there is a complaint.

**Prosecution powers.** In most EU states, IPCB do not have the power to press charge in court. When evidence for future criminal proceedings appear, IPCB refer the case to the public prosecutor as early as possible and the latter takes the decision on whether to press charge or not. Close routine working relationship between the police and prosecution authority in standard criminal proceedings may however undermine independence and impartiality in prosecution practice. Norway is an example of an IPCB equipped with prosecution

powers. Created in 2005, the Norwegian Bureau for the Investigation of Police Affairs investigates all complaints against police officers involving an allegation of a crime and can independently decide to prosecute the case in court. Based on the investigation of the Bureau, the Director makes the decision to press charge or not and has the same prosecuting competence as a public prosecutor. Independent prosecution power is a way to strengthen IPCB and insure the full independency of the mechanism.

Figure 4: IPCB in Europe in comparison

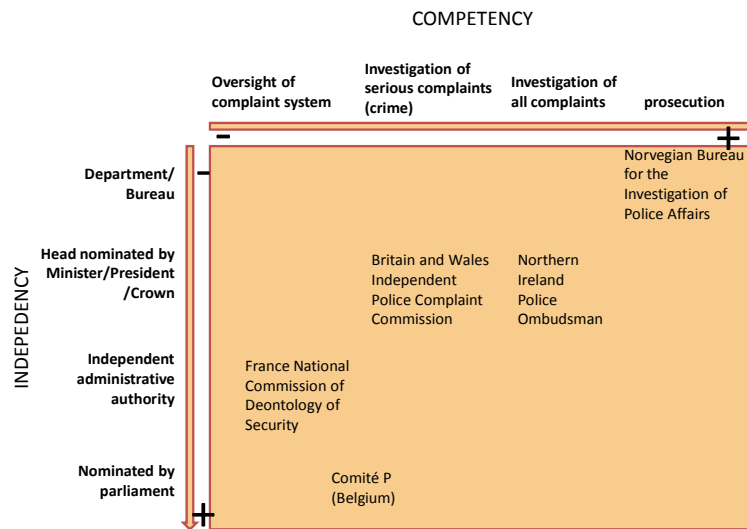


Figure 4 shows how IPCB in EU countries score on a table crossing dimensions of competency and independency. The Norwegian Bureau for the Investigation of Police Affairs ranks high on the competency scale as it is empowered to press charge in court once the investigation is completed. On the independency scale, the Bureau scores lower than other IPCB as it is a department office responding professionally to the Public prosecutor. The French National Commission of deontology of Security and the Standing

Committee of Belgium rank high on the independency scale but lower on the competency scale.

**Access.** Access is a further indicator of the robustness of the complaint system. In France, the National Commission of Deontology of Security can be activated *indirectly* mainly through MPs (the National Assembly and the Senate). The National Commission cannot be activated directly by a member of the public. This is an exception. The general trend is however to facilitate the access to IPCB and

make it user-friendly. Access can be facilitated by gratuity of service, publicity of the mechanism partnering with NGOs to promote the service, 24 hours service, legal aid, and using modern communication technologies. Britain and Wales further facilitate the access to the service by enlarging the group of people entitled to lodge a complaint. Apart from the main complainant, those who witnessed police misconduct, those affected by misconduct or duly authorized third parties are also entitled to lodge a complaint.

**Promptness.** Promptness of the response to a complaint is also seen as a key element to increase the confidence of the public in the mechanism and the rule of law. Britain and

Wales IPCC has issued statutory guidance with regards to the minimum standards for the police and the IPCC to deal in a timely manner with police complaints at each stage of the process (see table 4.1 on next page).

**Advising role and standard setting.** IPCB usually are entrusted with a monitoring function of the performance of the complaint system as a whole. The French National Commission of Deontology of the Security can propose to the government new laws and regulations in its field of competency. Together with HMIC, The Britain and Wales IPCC has power to issue statutory guidance for the improvement of the complaints system.

Table 4.1: IPCC Guidelines for the handling of complaints

IPCC		Police
IPCC will forward a complaint received from a member of the public to the relevant police force within two working days of receiving the necessary consent from the complainant	<b>Initial handling of complaint</b>	The police will decide whether a complaint should be recorded under the Police Reform Act 2002 within 10 days from receipt of the complaint.
The IPCC provides a 24 hour on-call service for serious incidents and:  will acknowledge a referral by the end of the next working day, and will decide the form of investigation within two working days of receiving the referral	<b>Mandatory referral to the IPCC</b>	The Police must refer specific categories of case(s) by the end of the working day following the day on which it came to attention
The IPCC must keep the complainant informed every 28 days if no specific arrangement has been made  The IPCC will ensure officers/staff are kept informed at appropriate points in the investigation  The IPCC will update the force on the progress of the investigation every 28 days, or make liaison arrangements.	<b>Communication by IPCC in independent or managed investigations:</b> with the complainant or interested parties  With the police officer(s)/staff member(s) involved  with the force	The police must keep the complainant informed every 28 days if no specific arrangement has been made    The police will keep officers(staff informed at appropriate points in the investigation.
	<b>Communication by the police in a supervised or local investigation</b>  With the complainant or interested parties  With the police officer(s)(staff member(s) involved	
The IPCC will acknowledge receipt of the appeal and notify the force by the end of the next working day after receipt.	<b>Communication about appeals</b>	
The IPCC will make substantive decision and notify the complainant and the force within 28 days.	<b>The complainant has 28 days to appeal against:</b> non-recording of a complaint; local resolution process; Outcome of a local or supervised investigation	
The IPCC will acknowledge the request within two working days and aim to give force a decision within 21 days of receipt.	<b>Communication between IPCC and the police about requests to dispense with a complaint or discontinue an investigation</b>	

Source: Statutory Guidance, IPCC, 2005

Web resources

EU Police Oversight Bodies and Anti-Corruption Authorities, <http://www.epac.at/>

Northern Ireland Police Ombudsman, <http://www.policeombudsman.org/>

Independent Police Complaints Commission, Britain and Wales, <http://www.ipcc.gov.uk/>

Garda Síochána Ombudsman Commission (Republic of Ireland)

<http://www.gardaombudsman.ie/index.htm>

Standing Police Monitoring Committee, Belgium, <http://www.comitep.be/>

National Commission of Deontology of Security, <http://www.cnds.fr/>

Opinion of the Commissioner for Human Rights, Thomas Hammarberg, concerning independent and effective determination of complaints against the police, March 12, 2009,

<https://wcd.coe.int/ViewDoc.jsp?id=1417857&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>

NACOLE, National Association for Civilian Oversight of Law Enforcement, USA,

<http://www.nacole.org/>

CACOLE, Canadian Association for Civilian Oversight of Law Enforcement,

<http://www.cacole.ca/>



## Best practice 5: Independent Control Authority of Data protection

### Introduction

Processing data lies traditionally at the heart of police work and cross border police cooperation in Europe. As personal (data allowing to identify a person) and sensitive data (data on religious, sexual, health or political opinion) belong to the private sphere, balanced legislation is necessary to protect citizen from abuses in collecting and processing police such data and its implementation monitored by the most robust governance mechanism. Reflecting this concern, European and national legal frameworks have stressed the importance of establishing an external independent control authority to oversee data protection.

In Schengen Accord (single border space) and Europol (fight of transborder serious criminality in Europe), exchange of data and cross-European data bases on individual persons are daily routine. To regulate these exchanges, the EU has issued special Directives and assumes the signing and ratification of the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, Council of Europe, 28.I.1981, and its additional Protocol. To enter into operational cooperation with third countries, the incorporation of the *acquis* in their national laws is a condition sine qua non for Schengen and a number of requirements are made for Europol.

In addition to the incorporation into national data protection laws of core principles regulating data such as finality of treatment, legality, data exactness, timeframe and updating data, security of data, traceability of

consultation, all European legal framework require the establishment of an Independent Control Authority (ICA).

ICA have three core functions. They monitor and issue authorization or recommendation for the establishment of data bases (private and public), they hear individual claims and investigate potential abuses, they have intervention powers to stop illegal processing and refer cases to tribunals, in some cases, have powers to sanction, and they advise government on legal issues related to their mandate.

### Legal framework

All European legal frameworks stress the independence status of the control authority. Art 1 (3) of the Convention of the Council of Europe of 1981 (Additional Protocol of 2001) says: 3. “The supervisory authorities shall exercise their functions in complete independence”. In EU legal framework, art. 28 of the EU decision stresses that the controlling authorities shall act with complete independence in exercising the functions entrusted to them. Since the decision applies *stricto sensu* only to pillar 1 of the Treaty of the EU, a special Framework decision 2008/977 was adopted by the Council for the police and judicial cooperation in penal matters. Chapter 25 of the Decision reiterated the principles formulated earlier of independency of the data protection controlling authority and its basic competencies.

### An institutional comparison of Independent Controlling Authorities in Europe

ICA are found in Europe in various organizational forms: they can be Boards or Committees, as in France, Austria, and Luxembourg, or they can be an office headed by a Special Commissioner, as in Germany, Switzerland, and UK. In all cases, there is a



dedicated institution supervising the implementation of the data protection law.

The EU and Council of Europe legal framework stress that the ICA needs to be independent without specification. Best practices can be found in states national legislation and these best practices have become part of the *acquis*, as the Swiss case illustrated. When signing the Schengen Agreement, Switzerland was requested to incorporate the EU *acquis* in matters of data protection and especially the EU directive 2008. A group of EU experts recommended to Switzerland a number of features that would strengthen the ICA already in place and that corresponded to best European practices.

### Nomination procedure

Perhaps the most critical factor for the evaluation of the degree of independence of the ICA is the nomination procedure. It is admitted that ICA should not be nominated by the administration they are intended to control. To reflect this concern, the Parliament is a key actor in the nomination procedure. In Germany and Hungary, the Commissioner is directly elected by the Parliament. In Switzerland, he is approved by the Parliament. In France, the Houses of the Parliament elect 4 members of the Board while other jurisdictions, including the judiciary, elect other Board members. In the UK, the Commissioner is nominated by the Crown by a Letter of Intent; the Houses of the Parliament are involved only in case of his removal from office.

The nomination of the ICA staff is also a robust criteria determining the degree of independency. The new draft law on data protection in Switzerland stressed that the Commissioner is fully in charge of hiring his office staff. CNIL President in France, the UK Commissioner, the Hungarian Commissioner, all are responsible by law for

### The French National Commission Informatics and Liberty in brief

Each year

- ✓ **72 000** declared processing
- ✓ **120 000** phone calls
- ✓ **25 000** letters received
- ✓ **5 000** claims or consultation request
- ✓ **200** controls
- ✓ **13** millions of €ob budget
- ✓ **120** staff

hiring the staff of the ICA. This recruitment independency allows avoiding any administrative interference from the administration to which the ICA is attached.

Regarding the administrative location of the ICA there is no single model. It can be an entirely separated units attached to the Parliament (Hungary), or incorporated in an administration (Chancellerie of the State in the Swiss case or the Home Affairs Ministry in the German case) or an autonomous administrative unit as in France or UK.

Independency of budgetary planning is also an important criteria of independency widely applied in EU states. In general, the data protection law specifies that the ICA must get the necessary budget to fulfil their legal mission. The ICA budget is usually a separate section or chapter in the administration to which it is attached and the budgetary planning has been drafted by the ICA itself.

Furthermore, the independence of the ICA is strengthened by a legal clause in the data protection law specifying clearly that it does not receive instructions from the Government and act on the sole basis of the law.

## Case study: Switzerland joining the Schengen space and requested to strengthen the independence of its ICA

For the discussion of Turkey, the Swiss case is relevant. Switzerland has already an operational agreement with Europol, but joining the Schengen space has necessitated the entire incorporation of the EU *acquis* in data protection. And this has important consequences on the status of its ICA. Following an official evaluation by EU experts, Switzerland is currently adapting its Data Protection Law to incorporate the EU *acquis*. The main issue identified by the international experts is the lack of independency of the Swiss oversight body on data protection. The so-called Special Commissioner responsible for data protection and transparency is currently nominated by the Swiss Government *in corpore*. This, according to the experts, is not enough. To increase his legitimacy, the nomination needs in the future the approval of the Parliament. His contract will also be renewed tacitly every four years. The decide not to renew the Special Commissioner's contract, the Government will have to provide "objective reasons". In addition, the ability of the Government to suspend him will be severely restricted. This and the possibility of the Special Commissioner to appeal from a suspension to the federal administrative court will guarantee his independency. A new draft law in these terms will soon be voted upon in Switzerland.

## Web resources

*National Boards*

National Commission Informatics and Liberty (France) <http://www.cnil.fr/>

Information Commissioner Office (UK), <http://www.ico.gov.uk/>

*Council of Europe*

Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, Council of Europe, Strasbourg, 28.I.1981

<http://conventions.coe.int/Treaty/en/Treaties/Html/108.htm>

Additional protocol, 2001, <http://conventions.coe.int/Treaty/en/Treaties/Html/181.htm>

*EU directives*

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, [http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:HTML)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:EN:HTML)

Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, [http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:350:0060:01:EN:HTML)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:350:0060:01:EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:350:0060:01:EN:HTML)

Chapter Liberty of the Charter of Fundamental Rights,  
[http://ec.europa.eu/justice\\_home/unit/charte/en/charter-freedoms.html](http://ec.europa.eu/justice_home/unit/charte/en/charter-freedoms.html)

*National legislation*

Act N°78-17 of 6 January 1978 on data processing, data files and individual liberties (France), <http://www.cnil.fr/fileadmin/documents/en/Act78-17VA.pdf>

Data Protection Act (UK) (1998) [http://www.ico.gov.uk/what\\_we\\_cover/data\\_protection.aspx](http://www.ico.gov.uk/what_we_cover/data_protection.aspx)

Swiss new draft law on data protection,  
[http://www.bj.admin.ch/bj/fr/home/themen/staat\\_und\\_buerger/gesetzgebung/datenschutz\\_schengen.html](http://www.bj.admin.ch/bj/fr/home/themen/staat_und_buerger/gesetzgebung/datenschutz_schengen.html)