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Foreword

Commencing with the present edition, only the annual English issue will be continued and is to serve both foreign and Dutch readers.

In line with last year's English edition, the coverage of the present edition of the Bulletin has been altered somewhat.

1 Research conducted with the full or partial financial support of the Ministry of Justice

1.1 Social and legal problems in connection with two-person relationships outside marriage; Part I (1979)

The investigation was commissioned by the Nederlandse Gezinsraad (Netherlands Family Council) and carried out with the aid of grants from the Ministries of Justice and of Cultural Affairs, Recreation and Social Work, by three institutes working together: the *Netherlands Institute for Socio-Sexological Research (NISSO)* at Zeist, the *Sociological Institute* of the State University of *Utrecht* and the *Fiscal and Notarial Institute* of the State University of *Leiden*. The supervisory committee was chaired by *L. Kiestra*. The first report appeared at the end of 1979 under the title, *'Twee-relaties, anders dan het huwelijk'* the rapporteurs being *Dr. C. J. Straver, A. M. van der Heiden* and *W. C. J. Robert*. The research was a qualitative investigation of 75 couples (hetero- and homo-sexual, with and without children). The brother-sister relationships will be described in a later report, along with a number of subordinate legal problems.

Cohabitation: Facts and figures
At present, couples living together make up 7% of all cohabiting couples in the Netherlands (whether married or not). In some Scandinavian countries the figure is at present 16%. A further rise is expected in the Netherlands, too, in the coming years. Trend extrapolations reveal a possible rise to 30% by the year 2000.
A clear distinction should be made between the cohabitation of young people (18 - 25) and that of older people (over 25). At present, it appears that over 50% of young people live together. For the majority of them, however, this signifies an experimental phase: learning to live in a relationship. A small percentage of them consciously opt for cohabitation rather than marriage and will continue to do so in the future. In the case of older people, cohabitation is a choice as far as heterosexual couples are concerned and the only option open to homosexual couples (besides living alone or in a commune).
Opting for cohabitation should not always be regarded as indicating express opposition to marriage. Rather, there is a sliding scale: from indifference towards marriage, through a feeling that it is superfluous and a reluctance to enter it, to outright rejection of it. As living together becomes a more open occurence socially, it becomes an option available to everyone; one need no longer be an avant-garde figure to decide to cohabit.

Basic functions, as understood by others and by oneself
People do not develop relationships in a social vacuum. Around the personal encounter and the satisfaction of mutual personal needs that takes place in that context there develops the 'edifice' of the two-person relationship in the social sense. Society around immediately views two-person relationships in the light of other concepts such as: lasting orientation towards each other, caring daily for each other, long-term feelings of responsibility for each other, choice of a common fixed abode, sharing of possessions, joint apportioning of tasks, appearing as a couple in the eyes of those around, etc. It is a question of classificatory principles which society already has available and which on the one hand assign a variety of tasks and responsibilities to the interpersonally oriented couple, and which on the other hand make it easier to structure interpersonal orientation. Relationships are frequently characterised by fairly lengthy processes of 'bargaining' in which both partners become, and are made, aware of their basic thinking and intentions as regards the relationship, and as a result agreement grows. In the majority of cases, such processes involve a great deal of conflict: conflict in which it is a question, on the one hand, of 'writing the rules' of the relationship in accordance with the intention and expectations of both partners and, on the other, of a power struggle, since one partner usually gives more to the relationship than the other or is in a position to make greater demands owing to the balance of the relationship. The widespread belief that two-person relationships are easily – even casually – terminated, however, would appear to have no basis whatever in reality: even partners in relationships completely marred by dashed hopes continue their efforts to make something of them.

Basic intentions
Partners in relationships can be divided according to the criterion of whether they are prepared to support each other financially should the need arise. Those who display such willingness the researchers refer to as the 'joint sharers'; those who do not display such willingness are termed the 'joint independents'.

Rules, problem areas and misconceptions
The majority of relationships covered by the investigation were both economically and personally asymmetric. This meant, to start with, that the partners were confronted with the question of how to deal with this

imbalance. Such a question affected both 'joint sharers' and 'joint independents', though in different ways. Once a couple have decided to 'jointly share' the financial side of their relationship, their first task is to decide how to work this out in practice; There is also the question of whether they wish to operate the same principle in relation to other considerations, e.g. whether to make the home and other possessions common property and, by so doing, ensure that in the event of death or separation the less well-off partner is not left without anything. Those who decide for 'joint independence' as regards the financial side of their relationship can then choose either to implement their decision strictly or to take a more flexible line.

At the level of the relationship itself, there are all sorts of reasons why people do not lay down rules. Some couples are so taken up with the psychological aspects of their relationship that they believe that by making rules they would be merely tying themselves to something that had nothing whatever to do with their relationship. Other couples, on the other hand, can view their arrival at clear, mutual agreements fixed in writing ('getting things straight') as precisely demonstrating that they take their relationship seriously. In addition to impediments to the making of rules found in the relationships themselves, there are two other main reasons why partners in two-person relationships do not make rules, or if they do, make bad ones. Firstly, there are the problem areas in the law itself, and secondly, their own misconceptions regarding their legal position.

Problem areas: A number of roles that partners would like to fulfil for each other simply cannot be assumed since the partners are prevented from assuming them by the law as it stands and by current legal practice. A special set of problem areas are those where partners run the risk of being compelled by the goverment to assume roles that they do not wish to assume and which are not consonant with the basic intention of their relationship. ***Misconceptions:*** Often, no rules are made because, owing to ignorance of the law or legal practice, it is believed that this is unnecessary.

Safeguarding of legal rights

On a number of points, the law and legal practice reveal wide gaps as far as two-person relationships outside marriage are concerned; on a number of other points one can make one's own arrangements, but either it is not so simple to do this properly or, by attempting it, one may end up in a situation which one did not envisage. It is

not surprising, therefore, that quite a number of couples seek some form of legal protection from the government. The interesting point here is that the 'joint sharers' and the 'joint independents' want totally different things. The 'joint sharers' want legal protection through the recognition of two-person relationships on an equal footing with marriage, and are prepared to assume the concomitant responsibilities as well as the privileges; their main demand is, however, that the government should finally be consistent and not recognise two-person relationships merely when, and to the extent that, it is in the interest of the Exchequer to do so. In many cases, they also want it to be made possible for them to continue to provide for the surviving partner in the event of death, through having that partner designated their pension beneficiary and through favourable rules of succession. It is particularly noticeable that nearly all 'joint sharers' seek these things from the government, while nearly all the 'joint independents' have a completely different attitude. In some cases, they expect nothing at all; some of them identify themselves with single persons. Others want favourable rules of succession; which is understandable, since they frequently share the housing aspect of their relationship, i.e. have a jointly-owned home.

1.2 Prisoners with postponed sentences (1979)

At the request of the Ministry of Justice, the present investigation was finally entrusted to the *Criminological Institute* of the State University of *Groningen* and was supervised by *Prof. Dr. R. W. Jongman.* The rapporteurs were *T. R. Drost* and *J. L. Schulte*, and their report was published in 1979 under the title: *'Dwarsliggers in de lopende vonnissen'*.

In the Netherlands some 14,000 postponed sentences ('lopende vonnissen') are passed each year. These are custodial sentences which are not served immediately following on pre-trial custody. In such an event the persons sentenced are required to report at a later date to serve their previously imposed custodial sentence. Fifteen to twenty per cent of them, however, fail to report. This means a lot of extra work for the judicial authorities. It hampers proper planning, necessitates additional enquiries and means a great deal of time spent on arrests and transportation. As a rule, those who fail to report are also themselves worse off: in most cases they are pounced on unexpectedly - sometimes at extremely inopportune times and places -.

and have no opportunity to make arrangements for the future. Moreover, they are generally taken to the House of Detention in Leeuwarden - a closed prison - whereas they would otherwise have been sent to a semi-open one, which would have entailed a more flexible regime, more determinate regulation of leave, more congenial surroundings, etc.

The most unexpected finding of the investigation concerned the first statistic. Almost 40% of investigated failure to report had nothing to do with a conscious decision to avoid the summons. Over half the cases were instances where in all probability the summons had never been received (owing to a change of address). The remainder were cases where the workings or response of the judicial system rather than the prisoners themselves were to blame for their classification in the category 'Failed to report'. The majority, for instance, had in fact reported, but not in accordance with the regulations; they were then immediately taken to Leeuwarden. There were also instances of persons being seized *before* the day they had to report and being made to serve their postponed sentence in Leeuwarden, or again, of persons who could not respond to the summons because they were already in custody for some other offence; but nevertheless, on release, they were re-arrested as having failed to report.

The researchers described all instances of non-deliberate failure to report collectively as 'organisation-based failures to report'. The remainder of the instances, where there had been a conscious decision not to report, they termed 'subjectively determined failures to report', or 'decisions to default'. Those concerned came to be known, for short, as the 'defaulters'.

The defaulters fell into two broad categories, according to the reasons they gave for defaulting.

- The first group defaulted mainly for practical considerations; often these were acute problems which would arise within the family, if the man of the house was absent. Often too, problems relating to work and income were involved. Those in this category were more narrowly categorised as the 'problem defaulters'.
- The second group (more than half) was made up of those who, usually because of their emotional response, refused to heed the summons: the 'emotional defaulters'.

A strikingly large number in both groups immediately resorted to requesting a stay of execution - certainly

large, if one considers that some 30% knew nothing of that possibility. In particular, persons with partners and children still living at home felt a need for such postponement. Their requests were nearly always granted.

Problem and emotion defaulters were further compared on other counts. Two main facts emerged:

- Emotion defaulters had more problems with the police who came to arrest them (and the converse is probably true!)
- When asked what they would do if, in the future, they received another unforeseen summons to serve a postponed sentence, the reponse of the emotion defaulters was no more negative than that of the problem defaulters. About a third of both groups declared that they might, or most definitely would, default once more. The problem and emotion defaulters revealed no differences therefore as regards their intentions regarding reporting.

In the case of both problem and emotion defaulters, the intention to report on any future occasion appeared to have been prompted mainly by a number of untoward experiences undergone as a result of having failed to report previously. Those who did not intend to report on any future occasion, or who 'couldn't say offhand', had had the same sort of umpleasant experiences, but in their case such experiences had had a less 'salutory' effect; even where only intentions were concerned. Three factors - and possibly any combination of these - appeared to be responsible for this:

- the short-term problems which compliance with the summons would once more occasion were in their case so great as not to be offset by the negative consequences of failure to comply. To expect voluntary compliance in such cases was asking the impossible;
- the feelings of resentment towards judicial authority and the 'clink' etc. were in their case so strong that to report voluntarily would be pure collaboration' - even considering all the penalties for failure to report;
- the negative consequences of failure to report hardly touched them, as such persons were precisely those who were most inured and hardened (with the longest and most varied list of previous convictions).

In the final processing of the research material, all defaulters were once more compared with the contrasting group of compliers and possible compliers. This time the main object was to interpret in more detail the emo-

tional component, which was, as one would expect, most pronounced in the case of the emotion defaulters, but which was also regularly reported in the case of the defaulters in general. This led the researchers to posit a two-fold theoretical division, albeit an in some ways speculative one: The defaulters broadly represent the category of offenders who have relatively strong roots in the so-called criminal subculture; the constrasting group represents those who, in addition to maintaining their criminal contacts, are still clearly oriented towards the dominant (sub) culture usually described as 'society'. Such a division would imply that in the case of the defaulters the emotional component is fostered by an attitude of opposition engendered by the (criminal) subculture, rather than by any fear of stigmatisation (which would reflect the mentality of the average citizen).
The last chapter of the report contains a number of suggestions relating to policy, largely based on the results of the investigation.

1.3 Victims of grave offences against property and of aggressive offences

Part II: The non-material problems

Criminological Institute of the State University, Groningen, 1980

Rapporteur:
G. J. A. Smale

Part II (1) of the final report describes the non-material problems of the victims.
Firstly, the psychical effects directly attributable to the crime itself are listed, attention being paid to the lasting changes in the behaviour of the victims occasioned by the crime. Secondly, several peripheral types of psychical damage are described, viz. those aspects of non-material damage which resulted from the victims' dealings with the police and the criminal justice system.
The forms of direct psychical damage described include: Psychosomatic complaints (nervous complaints and sleeping difficulties in the case of 24% of the victims, with related use of sleeping pills and tranquillisers for an average of nine months; feelings of loneliness in the case of 16%; frequent need to think about what had happened in the case of 48%);

2. Unrelated anxiety feelings and fear of a recurrence or of impending revenge (in the case of 26%, 67% and 27% of the victims respectively);
3. Feelings of insecurity (11% no longer felt safe to go out at night, 17% now felt it less safe to go out - see also 2);
4. Mistrust (40% were more wary of strangers, 32% now displayed less trust in their fellow-men in general - see also 2 and 3);
5. Guilt feelings (28% had the feeling that they themselves were in some way to blame for what had happened; of these, 33% believed it was avoidable and 3% regretted having informed the police).

On balance, it appears that victims of crimes of aggression suffer more psychical damage than victims of crimes against property. They reveal more psychosomatic disorders, they have deeper feelings of insecurity and – at least as far as the higher vocational classes are concerned – they have a greater fear of a recurrence and of impending revenge. As far as mistrust and guilt feelings were concerned, the effects of the two types of crime were similar. One of the factors that affects the nature and extent of psychical damage is the type of crime to which a person falls victim. On the several other factors identified, one of the most significant was the *gravity of the crime committed.* Victims who had sustained more serious injury and/or incurred more overall financial loss as a result of the crime displayed more psychosomatic disorders, had greater fear of a recurrence and acts of revenge and evinced a greater mistrust of strangers.

Another important factor was the *compensation* that victims had received and, related to that, the *financial loss they themselves had to bear.* Those who were dissatisfied with the compensation they had received and who were left to meet a relatively large amount of financial loss themselves revealed more psychosomatic disorders, had greater fear of a recurrence and impending revenge, were more wary of strangers and revealed more guilt feelings. In the case of the victims of crimes against property, the latter consideration was also affected by the fact of whether they had been *insured* or not and, consequently, by the *absolute amount of compensation* they had received. Property crime victims who were not insured and who received little compensation revealed greater suspicion of strangers and more guilt feelings. From this it would appear that compensation for financial loss forestalls or eliminates part of the psychical damage.

In addition to these two factors – the gravity of the crime and the financial consequences – several other, less important, factors affecting psychical damage were also identified. In the case of victims of crimes against property, personal *acquaintance with the perpetrator* appeared to be linked with deeper feelings of guilt and with greater suspicion of strangers; in the case of victims of crimes of aggression the reverse was true; suspicion was strong where the perpetrator had been a stranger. Another factor was the *history of victimisation;* first-time victims revealed greater fear of a recurrence and of impending revenge and more guilt feelings; previous victims showed a greater distrust of strangers. Lastly, in the case of the property crime victims, the psychical damage was also affected by their *home circumstances*. Victims who lived alone – and perhaps for that reason had less opportunity to talk to others about what had happened – revealed more psychosomatic complaints and more guilt feelings.

Among the *lasting effects of victimisation* on the behaviour of many of the victims, the researchers found increased attention being paid to various forms of crime prevention. Some of the victims took measures on a single occasion; others attempted to prevent further victimisation by more repeated efforts. Single occasion measures included: fitting extra locks or putting up a fence and acquiring an alarm installation, dog or defensive weapon. Such post-victimisation precautions were taken by a good 11% of the victims of crimes of aggression and 30% of the victims of crimes against property. Although both groups took extra precautions as a result of victimisation, the victims from the higher vocational classes were more deeply affected than those from the lower ones; consequently, they took more preventive measures than the lower vocational class victims. There is therefore a clear correlation between vocational level and degree of preventive effort.

A clear link with type of crime was also established. In general, property crime victims had taken more precautions prior to victimisation than the victims of crimes of violence. This was also true *after* victimisation, although the differences then narrowed somewhat. Generally speaking, victims became more cautious after victimisation; their caution, however, was not indiscriminate but offence-specific: they particularly attempted to avoid becoming victims of the crimes to which they had already fallen victim.

Besides these two characteristics – type of crime and vocational level – a number of other characteristics

were established in connection with the nature and extent of the precautions taken by the victims after the crime. Firstly, age; older people took more trouble to protect their possessions than young people. Furthermore, in the case of the victims of crimes of aggression, serious bodily harm more often resulted in more frequent avoidance of dangerous situations. There was also a clear connection with the psychical effects; fear of a recurrence and acts of revenge and mistrust of strangers appeared to go hand in hand with intensification of preventive measures. Lastly, it was noticeable that the holding of insurance policies did not occasion any reduction in the amount of precautionary steps taken.

As regards contact with the police, most victims (95%) reported the crime themselves. The victims appeared to be fairly satisfied with the conduct of the *police officer who drew up the official report.*

Some 17%, however, notably those from the lower vocational classes, did experience difficulty with the language used in the *police report.* Furthermore, many victims – about half the sample group – were not asked whether they were in agreement with the final version of the account; in other words, they were given no opportunity to make any final alterations. Leaving aside such criticism on linguistic and procedural points, nearly all the victims were ultimately satisfied with the report as drawn up.

While the victims' feelings regarding the reporting officer and the official report were fairly positive, however, they were more critical concerning *subsequent police action.* Only half the total group appeared satisfied with police efforts to clear up the case, i.e. to trace the criminal and the stolen goods. A quarter felt that no more was done than was strictly necessary, and a quarter again felt that the police had definitely not done enough. The main criticism of the police, however, related to the fact that frequently nothing was heard after the crime had been reported. Either no information was given or no help was offered, or no interest was shown.

In the researcher's view, many of the victims also sustained psychical damage (discomfort) through coming into contact with the criminal justice system.

The victims can be divided into two groups according to their experience of and views on criminal court proceedings. The first group rejects from start to finish the whole way in which criminal proceedings are currently conducted: they feel that victims are kept out of them to

an excessive degree; they are in favour of altering or doing away with traditional practices; they consider it of no interest or consequence that courts sit in public; they feel ill at ease during the proceedings; and lastly, they feel that insufficient consideration is given to the victim's position. This group is characterised as follows: they belong to the less well socially integrated members of society (younger, low income, low vocational level, less well insured); they have sustained somewhat more psysical and financial damage and are dissatisfied with the compensation they have received; they have a more negative attitude towards authority (they are critical of the reporting officer, consider that the police have not taken enough trouble and are dissatisfied with the way they have been treated by them); lastly they have often been victims in the past and have themselves a lengthy list of convictions to their name. (All this describes a cross-section, of course). The other group is made up of those diametrically opposed to the first group on all these counts.

The way in which judicial *sentencing policy* is viewed depends on a variety of factors. One such main factor is the purpose envisaged in the imposition of sentences. A third of the victims believed individual prevention should be the main object in passing sentences, 17% thought the main aim should be general prevention, 15% indicated indemnification, 9% retribution and vengeance (more often than not, such persons came from the lower vocational classes). Those who thought that indemnification should be the main object revealed all the characteristics of the less well socially integrated (see above). That apart, many victims were in favour of combining indemnification with a penal sanction.

If the victims themselves had been permitted to determine the sentence, more than half of them would have handed down prison sentences. Such sentences were more often the choice of victims of crimes of aggression than of victims of crimes against property. Long prison sentences would have been imposed in the main by those persons who had sustained a large measure of physical, financial and psychical damage. Almost 40% of the victims would have imposed fines. Those in favour of stiff fines were in the main those who had suffered appreciable financial loss.

Lastly, over a third of the total group surveyed were in favour of ordering (special) treatment (often combined with a prison sentence or fine). The measures most frequently indicated were: labour camps, with or without an obligation to earn money for indemnification

purposes there; help or treatment from a social worker or psychiatrist; community service and re-education, mostly by means of a TBR order (detention at the Government's pleasure). Those favouring such measures appeared to be very afraid of recidivism and acts of revenge and also expressed unfavourable views concerning the police and the way in which criminal cases are settled; they are therefore less well disposed towards authority and tradition.
At the conclusion of this section of the report, the researcher develops a sociological explanatory model for dealing with the victims of crime; the model is accompanied by a consideration of the assistance with which the victims should be provided. A report on the model will follow, once the awaited third section of the present report has also appeared.

1.4 **The working of the Nuisance Act** (1980)

The present investigation was carried out by the *Bonger Criminological Institute* of the University of *Amsterdam* under the supervision of *Prof. Dr. J. van Weringh.* The researcher was *M. V. C. Aalders.* A supervisory committee was chaired by *W. B. de Brauw.* The final report has now been submitted to the two sponsoring authorities, the Ministry of Public Health and Environmental Hygiene and the Ministry of Justice, and will appear in the near future.

The more the Nuisance Act is invoked for purposes far removed from those for which it was introduced as long ago as 1875, the more unworkable it becomes. Only when it has become clear that the ends for which the Act is used are not being attained do its working and the effects of enforcing it become an issue. This is precisely what occurred in the Sixties, when the Act began to be used to check environmental nuisance. Previously, the Act worked to everybody's satisfaction, since there was scarcely any occasion to call for its observance. True, the Act was violated, but no one, apart from the odd town council sensing a challenge to its authority was in any way bothered. When, however, the problem of the environment becomes a social issue and that issue has to be tackled by invoking the Nuisance Act, a complicated internal process is set in motion within the policy-making authorities themselves. On the one hand, there are calls for action to be taken against those who violate the Act; on the other, there is

apprehension of proceeding to such measures. Only now is it 'discovered' that the Act is 'not working', that the administrative and penal sanctions are 'inadequate', that the enforcement of the Act does not count for much, and that there are 'snags' in the enforcement policy. The result is a clash between groups which have an interest in seeing the Act enforced – though such groups carry less weight in an affluent society – and groups whose interests lie in the non-enforcement of the Act. The clash is exacerbated as large sections of the population become increasingly aware of the widening gap between environmental interests and those of 'economic growth'. Such a conflict of interests generates ambivalence in groups and in individuals and this ambivalance is reflected within the bodies responsible for enforcing the Nuisance Act: the civil administration authorities (mainly the municipal councils) and the criminal justice authorities. Because of this, enforcement of the Act becomes an instance of symbolic enforcement and the strongly worded legal sanctions (1952) an instance of symbolic legislation.

By carrying out five case-studies of proceedings instituted for the purposes of enforcing the Nuisance Act, the researcher was able to investigate the question of what factors influenced these proceedings and what parties were involved in the enforcement process. Enforcement of the Nuisance Act is running into difficulties because local authorities see themselves confronted with a number of problems:

- lack of adequate manpower;
- a legacy of wrong past policies;
- fear of interfering in local relations;
- insufficient openness towards the victims of violations of the Act;
- lack of priority accorded to the problem of the environment;
- the feeling that violations of this particular Act constitute only minor and isolated offences which are of little consequence;
- the empirically demonstrated fact that nuisance problems are essentially town and country planning problems;
- differences in attitudes towards economic interests and environmental interests;
- confusion as to the role, function, task, etc. of the various parties involved in the enforcement process and, in particular, civil authorities, Nuisance Act officers, Factory Inspectorate, Environmental Hygiene Inspectorate, police, Department of Public Prosecutions,

violators of the Act and the victims of such violation;
- various means devised by civil authorities and Nuisance Act officers to avoid having to enforce the Act, in particular the importance attached to negotiations with those requiring licences (or violators of the Act), through which the Act has to be 'bent' a little.

Although it is true that a more active policy has been pursued in relation to the Nuisance Act in the last few years - a policy reflected in further licensing procedures, registration of establishments requiring licences and more frequent resort to administrative sanctions - there is still no question of enforcement in the strict sense, since threatened closure is rarely followed by effectual closure.
The increasing role played by the Environmental Hygiene Inspectorate in recent years in advising and checking on policy relating to the Nuisance Act has further served to bring the Act to the attention of local authorities and those requiring licences; not that, as a result, the Inspectorate is greatly appreciated by them. Those requiring licences, in particular, were happier with the services provided by the Factory Inspectorate, which in recent years has progressively had to cede various of its tasks to the Environmental Hygiene Inspectorate. Behind such changes lie functional differences: the Factory Inspectorate looks after the 'internal' environment, while the regional Environmental Hygiene Inspectorate attends to the 'external' environment.
A striking fact is the lack of communication between local authorities and the victims of contraventions of the Nuisance Act. Even (petty) infringers of the Act frequently feel they are being victimised by a local authority and by the numerous - in their eyes indeterminate - bodies either formally or informally occupied with the enforcement process. A possible answer to some of the problem areas described would be an Environmental Hygiene (General Provisions) Act, equipped with a chapter providing administrative and criminal law sanctions, which at the same time regulated in general terms consultation between administrative and judicial authorities on the identification of environmental offences. Improved working of the Nuisance Act could be achieved particularly by keeping firmly in mind the object of the Act and its amending legislation and by assessing the value of the influence exercised by the various parties involved in the enforcement process. It seems important that the

Nuisance Act should be regarded as a minor 'Environmental Act'.

1.5 'Bussgeldbescheid' and 'Strafbefehl' (1980)

This research was carried out by *Prof. P. J. P. Tak* of the *Faculty of Law* of the *Catholic University* of *Nijmegen*. Prof. Tak reported his findings in Spring 1980 under the title: 'Strafbefehls- en Bussgeldverfahren'.
First, both procedures will be briefly described; then the differences between the Netherlands and West Germany will be dealt with in greater detail; lastly, the question of the possible relevance of the West German provisions to the Netherlands will be examined.

The *'Strafbefehl' procedure*
The 'Strafbefehl' procedure is applicable in the case of felonies falling within the jurisdiction of the 'Strafrichter' or the 'Schöffengericht'; this includes all traffic offences. The 'Strafbefehl' plays a major role in West German practice since by such a summary arangement it is possible to avoid lenghty and costly proceedings. The 'Strafbefehl' is a draft order formulated by the West German Department of Public Prosecutions which, having been found to satisfy the material and formal requirements, is signed by the Court and which, once served on a suspect, becomes enforceable unless the latter lodges notice of non-acquiescence with the Clerk to the 'Amtsgericht' within one week of the day of service of the 'Befehl'. Accordingly, in such cases criminal proceedings are shortened considerably, since no court sitting is required.
The 'Strafbefehl' must include the charge(s), the evidence and the penalty determined; information is also given concerning the closing date for, and the mode of, appeal. The 'Strafbefehl' is served on the suspect. The period within which appeal is possible commences on the day on which the 'Befehl' is served. If a suspect can show that he was not fault in failing to meet the closing date for appeal, the Court has power to stipulate that his case may still be heard ('Wiedereinsetzung in den vorigen Stand': reversion to the status quo ante). If a suspect lodges an appeal, the case is dealt with at a court session. The 'Strafbefehl' then serves as a summons. The suspect is required to appear, otherwise his appeal will be held to have been cancelled.

The 'Bussgeld' procedure

The 'Bussgeld' procedure is the usual way of settling 'Ordnungswidrigkeiten' (OW) (formerly, misdemeanours) and finds its statutory basis in Part Two of the 'Gesetz über Ordnungswidrigkeiten'.

Administrative officers are reponsible for the prosecution and settlement of OWs, although in very exceptional cases the Department of Public Prosecutions may take over the prosecution. In principle, the specific Act whose contravention has given rise to an OW lays down the competent administrative authority. Contrary to the practice followed in relation to the prosecution of criminal offences, where the legality principle operates, it is the principle of opportuneness that is followed in the prosecution of OWs: that apart, the margin for discretion is fairly limited, particularly in the case of traffic OWs. The administrative authority may be satisfied with issuing a warning or with a monetary transaction. Directives stipulate in more detail the cases and circumstances in which transactions are acceptable. If an offence is not susceptible of being made the subject of a transaction, a 'Bussgeldbescheid' is issued. A 'Bussgeldkatalog' has been drawn up in an endeavour to ensure uniformity in settlements. The 'Bussgeldbescheid' is served on the person concerned. With a few exceptions, the position as regards the procedural rights of the person concerned and of the administrative body in the 'Bussgeld' procedure is similar to that of the suspect and the Department of Public Prosecutions in criminal proceedings.

Notice of appeal against the 'Bussgeldbescheid' must be lodged within one week of the day on which the 'Bescheid' is served; such appeal may be withdrawn up to the time of judgement in first instance. An appeal can be dealt with in two ways, viz. on the basis of documents by way of case stated after the consent of the person concerned and the Department of Public Prosecutions has been obtained, or on the basis of examination of the evidence during a court session. The rules of criminal procedure then apply, the main exceptions being that the person concerned and the Department of Public Prosecutions are not obliged to appear unless the court so decides, and that the court may limit the hearing in the interests of simplifying the proceedings. The whole proceedings culminate in a ruling. In the case-stated procedure, the court cannot deviate from the 'Bussgeldbescheid' to the detriment of the person concerned. Rulings given on appeal can be challenged through the remedy of 'Rechtsbeschwerde', which is similar to 'cassation'.

Differences between the situation in West Germany and the Netherlands

In both the legislation and jurisprudence of West Germany, great emphasis is laid on the principles of criminal procedure, at least as far as the examination of the evidence during a court session is concerned. In practice this means, for instance, that in a single session the 'Amtsrichter', whose work is in part comparable with that of the Dutch 'Politierechter', cannot get through half the number of cases that his Dutch colleague manages to deal with per sitting. Compared with the situation in the Netherlands, the West German Department of Public Prosecutions has to cope with a much larger inflow of police reports. This has to do with the fact that the police in Germany are bound by the legality principle and do not enjoy any - even subordinate - discretion in the matter of whether or not to press charges; this means, for instance, that all police reports relating to cases where the perpetrator is unknown must be forwarded to the Department and expressly set aside by it. Because the Department of Public Prosecutions is limited in its freedom of action as regards prosecution and the sitting magistracy is limited in its freedom of action as regards sentencing (e.g. by the specific minimal sentences laid down), the administration of criminal justice in West Germany is an appreciably slower process than in the Netherlands.

In the Dutch criminal justice system, too, a situation may arise where the dropping of criminal charges represents the one extreme and bringing the case to court the other; in other words, where an appropriate measure from the point of view of criminal justice cannot be enshrined in an appropriate criminal procedure measure. For such a dilemma, the Dutch Code of Criminal Procedure provides the Department of Public Prosecution with a solution in the form of the conditional dropping of charges, the grounds of public interest no longer making prosecution necessary, provided that the conditions laid down by the Department of Public Prosecutions are fulfilled. However, if other decisive factors are involved (e.g. the effective administration of justice), it is theoretically inelegant to employ this particular legal form and another must be sought which displays similarities with it: e.g. the transaction.

Bill No. 15012 proposes the extention of the transaction to cover felonies as well, in accordance with the recommendation of the Financial Penalties Commission. In the Netherlands, *Van Veen*, while considering the

proposal for transaction in the case of felonies to be reasonable and justifiable from the practical point of view, adduces as one weighty theoretical objection to the proposed extension the fact that this would entail the removal of a yet larger area of justice from public scrutiny and from judicial control. It would mean saying farewell to open criminal proceedings with all their safeguards, or at any rate could give rise to concern that in the long run the foundations of the Dutch system of accusatorial criminal procedure might also be undermined. Instead of extending the transaction in this way, Van Veen advocates the decriminalisation of (morally indifferent) felonies and their reconstitution as misdemeanours.

Possible usefulness of the procedures in relation to the Netherlands

Now that in the Netherlands a decision in principle has been reached to extend the use of the transaction to cover felonies, and since in other respects the way in which felonies are dealt with there in practice cannot be compared with the West German situation, there is no urgent need to introduce a legal form equivalent to the 'Strafbefehl'.

The situation as regards misdemeanours, however, is quite different. Here, an ever increasing flow of minor traffic offences in particular threatens to overwhelm both police and judicial authorities. What advantages, then, to the Dutch system of settling traffic offences might be suggested by a comparison with the 'Bussgeld' procedure?

- One such advantage relates to transaction in the hands of the police. By increasing the percentage of such transactions, the pressure of work within the police apparatus could be reduced, since, to start with, particulars jotted down for the purpose of preparing an official report need not be further elaborated, a circumsta which in turn would reduce the flow of police reports to the Department of Public Prosecutions. In this connection, it should be noted that in West Germany, policy is directed as far as possible at shifting the emphasis from issuing tickets in respect of vehicle registration plates to stopping offenders on the spot whenever an offence is seen to take place. Such a policy has many advantages. One such is the police belief that an immediate response to a traffic offence has a more lasting effect on future driving habits than a delayed response. Moreover, immediate police action also has an effect on the driving habits of other road users.

- A second advantage. One of the fundamental principles of both Dutch and German systems is that every person accused of having committed a traffic offence – be it 'misdemeanour', 'Ordnungswidrigkeit' or whatever, in the eyes of the Law – has the ultimate right to have his case heard by an independent court. The main difference between the two systems lies in the way this cardinal principle finds expression: In West German law, the person concerned must assert his right by expressly challenging a 'Bussgeldbescheid', whereas in Dutch law this right is automatically accorded unless a suspect does something to nullify its validity; in other words, refuses to agree to a transaction and/or settlement proposal.
  The requirement that the person concerned in a 'Bussgeld' procedure must actively assert his right to have his case heard by a court does not – if we accept an analogy with the 'Strafbefehl' procedure – conflict with the principles of the constitutional State and does not involve any violation of the rights or freedoms laid down in the European Treaty. It would be possible, by doing away with automatism and by introducing a right only actively acquired, to eliminate an unnecessary burden on the judicial apparatus in the form of an endless series of undefended cases. After all, all cases in which suspects were not prepared to assert their rights would be settled without recourse to the courts.
- A third advantage would be the appreciable administrative simplification attainable through the 'Bussgeld' procedure. In most cases, the police report forms the original of the 'Bussgeldbescheid'. It contains all the relevant details; in other words, the person concerned can also use it to work out his legal position and to determine accordingly whether or not to challenge the Bescheid. The set of forms in use is designed in such a way that a single administrative action suffices to furnish all the documents neccessary for settlement of the 'Ordnungswidrigkeit' with the details required from the police and administrative authorities.
  Because the 'Bussgeldbescheid' takes the place of the preferring of charges, a case can be brought to court soon after the 'Bescheid' has been challenged, since a number of administrative procedures are dispensed with. In this way it is also possible to reduce drastically the interval between the commision of the offence and its settlement in the eyes of the criminal law.
- A final advantage is that the West German system lends itself to a large measure of automation as far as administrative procedures are concerned. It is possible to profit from

experience gained elsewhere.
Lastly, in comparing the 'Bussgeld' procedure with the Dutch system of settling misdemeanours it is noticeable that in West Germany – in contrast to the Netherlands – the officers and services specifically responsible for ensuring the enforcement of specific Acts are empowered to conclude transactions and settlements.
The idea of extending the sphere of application to cover all cases in which a transaction with the Department of Public Prosecutions is possible but which at the same time are not covered by the Police and Court Records Decree would seem an attractive proposition; a national 'transaction' list relating to non-traffic offences dealt with by Cantonal Courts already exists, with the result that such a list could form the basis for a uniform transaction policy; an immediate response is preferable to delayed action in the form of a Department of Public Prosecutions settlement; numerous infringements of specific Acts lend themselves to settlement by transaction and the supervisory officers directly concerned are in an excellent position to decide which particular offences should be capable of such settlement.

1.6 Judicial documentation*

The Institute of Criminology of the Catholic University of Nijmegen, 1980

Author:
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The Act [1] regulating the Judicial Documentation and Certificates [2] of Past Conduct was put into operation on January 1st 1959.
On the one hand the Act provides the registers of the Judicial Documentation with a legal basis, and on the other it regulates the issue of the Certificates. The Judicial Documentation contains the records of the judges' decisions, as well as those of the prosecutors. The Certificate is a document, to be issued on request by the burgomaster of the municipality of which the requester is a resident, meant to replace the century-old

* Under the supervision of prof. W. H. A. Jonkers, the author concluded her project with a dissertation entitled: 'Justitiële documentatie en antecedentenonderzoek' Tjeenk Willink, Zwolle, 1980.
1 Hereinafter referred to as 'the Act'
2 Hereinafter referred to as 'Certificate(s)'

certificate of reliability, commonly called certificate of good character.
During the first ten years of its being in operation the Act suffered minimal criticism, and it was not until the troubles of the late sixties that serious objections were beginning to be put forward. One of these was, that those who sought employment in the public service, could expect an Inquiry into their past conduct[3], in which their criminal record could be taken into account over a considerably longer period than would be possible in case of their applying for a job with a private employer asking to see a Certificate. In 1969 a motion was introduced in the Second Chamber of the Dutch Parliament, expressing the desire to remove this difference with the effect of maintaining the shorter period in all cases. A decision was postponed because the government, which did not take an altogether unfavourable attitude towards the motion, pointed out that changing the Orders in accordance with it would take a very long time to carry through.
In 1976 the motion was taken from the Second Chamber's list of business still to be dealt with after the government had unequivocally promised to satisfy the desire expressed in it. At the moment this study was concluded (August 1979), the amendment of the Rules based on the Act, necessary to incorporate the promise of the government in these Rules, had not yet been completed. However, the government had already arranged, informally for the shorter period to be applied in all cases relevant to the motion.
Since 1969 dissatisfaction with the Act has further increased. Not only in the literature, but also in Parliament, the matter is brought up nearly every year, and always more or less in the form of criticism.
This criticism did not stop at the difference in periods pointed out in the motion of 1969' Inside as well as outside Parliament many other objections were raised.
This course of events has inspired the author to examine the way in which the Act and the Rules based on it, are enforced.
The study is divided into two parts. The first (Chs. 1/5) is descriptive, and the second (Chs.6/8) contains a discussion of the findings of the examination of the Act's enforcement.
The author has attempted, by studying the parliamentary history of the Act and some other sources, to

3 Hereinafter referred to as 'the Inquiry'

reconstruct the motives that brought the government to present a Bill on the matter to Parliament (Chapter 1). It appears that the need to provide the issuing of Certificates with legal guarantees, formed the only inducement to create this Act. However, since during the Inquiry it is permitted to take notice of information concerning the criminal past of the person in question, it was imperative also to include in the Act some sort of regulation as to the recording of this information. The Judicial Documentation is the 'memory' of the judiciary. The government was of the opinion, that the organisation of this 'memory' in itself was a matter solely concerning the judiciary and therefore did not need a legal basis. In fact, at the time of the introduction of the Bill, the Judicial Documentation had already been regulated by a Royal Decree. Only the fact that the Judicial Documentation was also to function as a source of information in the examination of a citizen's conduct in connection with his request for a Certificate, necessitated a regulation by law of the Judicial Documentation itself.

Chapter 2 describes the contents of the Rules. The idea behind the Act is, that the Judicial Documentation should consist of two registers. The first should be a full register, called the General Documentation Register, exclusively at the disposal of the jucidiary, and the second a much more limited one, the Criminal Register, functioning as a source of information for the burgomaster, when issuing a Certificate. The data in the Criminal Register should be removed from it after a certain period, according to the gravity of the offence (rehabilitation). However, within the Act provision has been made for exceptions to this system. These are worked out in the Information Judicial Documentation Order and the Information Criminal Registers Order. It appears from these Orders that, especially in case of employment in both public and quasi-public service, information may be disclosed from the General Documentation Register, as well as from the Criminal one. In certain cases, specified in the Orders, this information may not only be accessible to the burgomaster, but also to other persons in charge of public affairs, these being under no compulsion to follow the procedure with regard to the issuing of a Certificate. This means, that in many cases the legal protection offered by the Act is prevented from being effective.

Chapter 2 also contains a description of the instructions given to the police in connection with the coming into force of the Act (the so-called police circular of 1959).

The instructions were given because strangely the Act, while in certain circumstances allowing the burgomaster, conducting an Inquiry, to take into account police information, does not in fact regulate the registration of that information itself. The police circular is meant to supply this deficiency to a certain extent.
Chapter 3 contains a survey of the criticisms put forward, both in and outside the Parliament, since the coming into force of the Act. It appears that the fact that it is possible for employers to demand a Certificate from the applicant, is seen particularly by the Rehabilitation Societies, as a serious obstacle for the convicted person on his way to complete rehabilitation.
Also, apart from the question of periods, there appear to be all sorts of objections to the Inquiry with regard to applicants for a job in the public service.
Moreover, there is considerable criticism as to disclosure of information by the police to third parties.
Commenting on these points, the author finds markedly little substantial evidence to support these criticisms.
Also it may be noticed that the criticisms are not concerned with disclosure of information from one country to another, other than for the purpose of arrest, prosecution and trial.
Chapter 4 presents the results of some comparative legal research, and discusses the EEC regulations concerning the giving of information about criminal antecedents, other than for the purpose of arrest, prosecution and trial.
Within the EEC there apear to be a large number of regulations, on the one hand bearing on obtaining information concerning a criminal past, in connection with the admission of nationals of Member-States to the territory of other Member-States, and on the other related to the requirement to produce a certificate of reliability, needed in order to be able to fill a number of posts in the receiving country. Chapter 4, also contains a discussion of some recommendations adopted by the Council of Europe, which relate to the matter concerning this study.
Chapter 5 examines the development of both public opinion and the regulations concerning the Inquiry since 1959, when the Act came into force. In the case of those applying to the central authorities for a post, the Inquiry is regulated specifically by the Inquiries Order of 1969. This Order makes a distinction between judicial Inquiries and inquiries for purposes of security. The judicial Inquiry is conducted in the case of anyone applying to the central authorities for a post. For regulation of this

Inquiry the Order refers to the Act and the Rules pertaining to it. It was stated above that, precisely with regard to applicants for posts in the public service, important exceptions were made in the Rules, causing the legal protection offered by the Act to become ineffective. The inquiry for reasons of security is more extensive and conducted by one of the intelligence or secret services. It is carried out exclusively with regard to those who are eligible for a position of trust. This inquiry comes under a type of legal protection which essentially resembles that offered by the Act with respect to an inquiry concerning a request for a Certificate. The Inquiries Order, however, does not apply to all posts in the public service. In the first place it is limited to those who wish to apply to the central authorities for a post, and does not concern those desirous to be considered for employment by lower, e.g. municipal and provincial, authorities. Moreover, it does not apply to all who are entrusted with a position by the central authorities.

Chapter 5 also pays attention to the development of public opinion as to the protection of privacy in relation to central registers containing personal information since 1959, in so far as it concerns the study. The increasing automation of these registers has occasioned the Privacy and Personal Information Registers Report, written by the Protection of Privacy Government Committee. In anticipation of the introduction and passing of a bill regulating personal information registers, as drawn up and recommended by the committee, the Prime Minister has given directions, by means of a Ministrial Order, with which every automated personal information register, kept by the authorities, is compelled to conform.

In chapter 5, also some rules are derived from these data, which the author thinks ought to govern every Inquiry conducted by the authorities, as well as every personal information register in their care, in so far as, for the purpose of the Inquiry, information therefrom might be disclosed.

With regard to the Inquiry conducted by the authorities there should be a public regulation stating in which cases Inquiries may be held. In such a regulation provision should be made for the person concerned to be informed of the proceedings beforehand. Furthermore, he should be offered a possibility of defence if the decision is not in his favour.

Regarding the personal information registers in the charge of the authorities, from which information may

be disclosed for the purpose of an Inquiry, it should be made clear in a public regulation from which registers information may be disclosed, up to what point, and for what purposes. The possibility of inspection of information in the registers by the person concerned should be laid down, as well as the way in which incorrect or incomplete information might be corrected. Whenever this right of inspection and correction could not be granted, a confidential body should be designated, to which the person in question could complain if he thought there had been irregularities in this case. This body should have far-ranging powers to hold inquiries in these cases.

In the second part of this study the above-mentioned rules are used as criteria to which the results of the examination of how the Act is actually enforced are tested. It is argued that the Act is an early regulation of the legal protection of the citizen, both in the case of an Inquiry and in relation to certain personal information registers. The system of the Act is examined with the help of the criteria developed above, and for the greater part found to satisfy them.

Still, the fact that very many Inquiries do not come under the legal protection of the Act, appears to be a major problem. A further serious drawback is, that there is no regulation for the police registers, which may endanger the legal protection envisaged by the Legislature. It must be added that such a regulation is currently being prepared by the government.

The examination of how the Act is applied in practice, forms the subject of the second part of this study (Chapter 6 and 7).

Chapter 8 surveys the conclusions already drawn in a broader context. It is proposed to create a new body, the Inquiries Board, which should be given the task of uncovering hitherto secret Inquiries conducted by the authorities. To this end the Board should have far-ranging powers. Also it could be made to serve as a source of information for the general public, and as a body the government would be compelled to ask advice from. In principle the Board's advice should be public, and it could devise a long-term plan to ensure that in future, no Inquiries could be conducted by the authorities without adequate legal guarantees.

The Certificate should be allowed to remain. However, proposals are made to change and add to the Act on a number of points.

The rehabilitation period should be shortened in certain cases and when a person wishes to appeal, he should be

allowed to take his case to a higher court, if the decision in the original one is against him. The only form of appeal possible at the moment is that of the Attorney-General to the Supreme Court.
This Court pronounces the judge's original decision, which it cannot change, to be or not be be in accordance with the law.
Regulations concerning police information which may be used in enforcing the Act, should be included in the Act itself.
Only a very limited section of this information, which should be included in a special register, should be allowed to be used in enforcing the Act.
The right of inspection of information and correction of undesirable or incomplete data should be guaranteed. Also it should be possible for the judge to order the removal of information from the General Documentation Register or the Criminal Register, but only in exceptional circumstances. It appears from the inquiry that the Certificate fulfils a very useful function, especially in the interrelations within the EEC. However, it is found that the EEC-regulations are observed very badly by the Member-States. It should also be the task of the Board to keep in contact with similar organizations abroad (such as the 'Bundesdatenschutzbeauftragte' and his Hessian collegue in the FGR and the Data Protection Board in Sweden). The pressure these bodies bring to bear on the European Parliament may be expected to result in better knowledge and observance of the existing regulations.

2 Research conducted by the Research and Documentation Centre of the Ministry of Justice

2.1 Early Intervention in The Hague District

Research and Documentation Centre, 1979

E. G. M. Nuijten-Edelbroek
L. C. M. Tigges

Introduction

Since 1 January 1974 Dutch law has provided that rehabilitation (probation and after-care) agencies can provide early assistance for certain suspects held at police stations. This means that the agencies contact such suspects to see whether they are in need of help. Such early assistance, or 'early intervention' as it is called, may be regarded as having four objectives:

- To assist the detained person with his immediate problems;
- To limit the use and length of remands in custody;
- To initiate, if necessary, a process of assistance to continue after the early intervention;
- To have a voice in the judiciary's policy regarding requests for pre-trial reports.

Within The Hague District, early intervention work in The Hague itself has been organised since 1976 on lines which differ from those followed elsewhere in the Netherlands; here, early intervention is provided by a permanent team of (four) social workers engaged exclusively in this kind of work. This form of organisation was adopted in order that, through improved personal contacts among other things, more flexibility might be achieved in the cooperation between police, judicial authorities and rehabilitation agencies, and that a more efficient and more effective manner of carrying out early intervention work might be found. At the request of the 'Algemene Reclasserings Vereniging' (General Probation and After-Care Association) and the rehabilitation section of the Salvation Army in The Hague, the Research and Documentation Centre of the Ministry of Justice made a study of the way the early invention team functions. In it, more attention was paid to the question of whether the objectives of early intervention work were being achieved than to the extent to which the form of organisation was appropriate. What was studied was the extent to which the objectives of early intervention work in The Hague, with its distinctive form of organisation, were being attained. The data required for the purpose were

gathered with the aid of questionnaires which the probation officers concerned filled in over a five month period (June to October 1977) and which requested information on the nature of the early assistance they were providing and, where applicable, on the nature of assistance rendered after early intervention help had ended.
Supplementary interviews were conducted with several members of the judiciary (Public Prosecutors and Examining Magistrates) and with several police officials.

Results
The objectives of early intervention can only be achieved if suspects can be reached during the time that they are held in detention at the police station. It is necessary therefore that contact be established between the suspect and the early intervention team.
During the period under survey, 859 persons were detained in police custody in The Hague District, 70% of them in The Hague itself. About half of these (47%) had been contacted by a social worker of the early intervention team; 30% were seen while still at the police station and 17% at the Palace of Justice (the building in which suspects are brought before the Examining Magistrate). As the police notified the probation and after-care agency only once a day in writing of the persons detained in custody, quite a long time elapsed between the time the suspects were detained and the time they were visited by a member of the early intervention team. In over 50% of the cases more than 24 hours had elapsed.
The fact that half of the persons held in police detention received no early assistance was due to the lateness of the notification to the probation and after-care agency; this was particularly true in the case of suspects who were detained just before or during a weekend. As the early intervention team did not work at weekends, these suspects were often released again before the team had been notified of their detention.
The length of the interviews with the suspects varied greatly; some lasted only five minutes and others three hours, although 90% to 95% took no more than an hour. Various matters were discussed: the offences and the socio-psychological position of the suspects were the main subjects discussed in 67% of the cases; uncertainty about what would happen next, particularly with regard to the remand in custody and the sentence for the offence, was a major topic in 59% of the cases. The

reasons for providing assistance to the suspect were discussed in 43% of the cases.
During the interviews with the suspects the members of the early intervention team provided information primarily on criminal law matters (73%) and the help that could be provided (77%). In 66% of the cases they also gave the suspects emotional support. Here again, two dimensions could be distinguished. Giving emotional support, providing information on criminal law matters and settling various practical matters can be described as 'crisis intervention'. Information on the forms of assistance available and the making of further appointments constitute the second dimension, which relates more to the provision of assistance in the less immediate future.
Owing in part to the briefness of the interviews, it often did not proof possible to get around to discussing alternative forms of assistance for the suspect's problems. The members of the team considered that further assistance was required in 80% of the cases. It was agreed with two-thirds of the suspects, therefore, that the probation and after-care agency would have further contact with them. In 15% of the cases it was left to the suspect himself to take the initiative. In only 6% of the cases was no appointment made for further contact.
Within the framework of its early assistance work, the early intervention team contacted a small number of persons and agencies following the early intervention interview. From this it could be concluded that the team itself did little in the way of providing assistance at a later date, but left this to other probation and after-care teams. In those cases where members of the team did contact a third party this was usually the police, the judiciary, relatives of the suspect, or fellow social workers.
Decisions on remands in custody were one of the reasons that the team was sometimes in contact with the judicial authorities. The team provided information – almost exclusively orally – on 43% of the suspects brought before an Examining Magistrate. This related to the situation of the suspect, the desirability of preparing a pre-trial report, the possibility of suspending the remand in custody and the need for assistance.
The interviews with members of the judiciary revealed that in their opinion early intervention work was not able to contribute much towards limiting the use of remands in custody, but it could contribute towards limiting their length. The probation and after-care agency was sometimes able to submit an alternative to

remand in custody, thus making suspension of the remand possible.
Two-thirds of the suspects who had received early assistance (232 out of 407) had further contact with the probation and after-care agency after early intervention help ceased. In the case of a large proportion of these persons (84%) this was because the agency had to produce pre-trial reports. In 71% of the cases, it was the social worker who took the initiative in contacting the suspect. Only in a few cases (15%) did the suspect himself take the initiative, or contact come about via the police, judiciary, relatives or friends (14% in all).
In about one third of the cases the assistance relationship was terminated within three months, in half of those cases within one month. The reasons given by the social workers were either that the suspect was able to cope on his own, that he had been referred to another agency or that he no longer wished to cooperate.

Conclusions
The study revealed that the main significance of early intervention work in The Hague lay in providing direct assistance to suspects – the first of the four objectives referred to above. Such assistance involved settling a variety of practical matters (informing the suspect's family, seeing that clothing etc. was brought to the police station), supplying information (on the forms of assistance available and on the criminal law process), and in particular giving emotional support.
As regards its objective, early intervention could not contribute so much towards limiting the use of remands in custody as to limiting their length. It was mostly in cases where the personal circumstances of the suspects made it undesirable to deprive them of their freedom – for instance, in the cases of suspects with mental problems, family problems of alcohol or drug dependence – that it proved possible to achieve suspension of remands in custody, whether or not with certain conditions attached. Apart from that, actual alternatives to remand in custody – e.g. possibilities for treatment in clinics and reception centres – were shows to be available only to a very limited extent.
As to the third objective, initiating an aid process at the earliest possible stage, the study revealed that in the case of two-thirds of the suspects with whom there had been an early intervention interview the aid relationship was continued. Factors apparently playing a role in this were the nature of the offence and the request for a pre-trial report. Contact was continued in particular

with suspects in really urgent need of help, although the probation and after-care agency lost contact with a number of them. The question arises whether the contact which continued to be maintained would ever have been established had there been no early intervention. The answer is presumably yes in those cases where a pre-trial report had to be prepared. The survey also showed, however, that in the case of a relatively large number of those clients for whom no pre-trial report was requested (94 out of 232) further contact continued after the early intervention. In the absence of early intervention, it is highly improbable that such contact would ever have come about.

The fourth objective of early intervention was to enable the probation and after-care agency to gain some control over requests for pre-trial reports. During the period under survey, the majority of pre-trial reports in The Hague were prepared at the request of the Examining Magistrate or the Public Prosecutor. Nevertheless, in a number of cases the early intervention team did have some influence on whether or not a report was called for, because this subject was raised explicitly or implicitly in the consultations between the team and the Examining Magistrate or the Public Prosecutor (early intervention reporting).

The basic reasons for having early assistance given by a permanent team were that this would improve cooperation between police, judicial authorities and probation agencies and that the time and energy spent on early intervention would be used more efficiently. The interviews conducted with various people revealed that, after a hesitant start, the decision to provide permanent staff for the early intervention team resulted in good multilateral cooperation and understanding and in increased mutual respect and appreciation. Compared with early intervention work in other Dutch cities, a fairly high percentage of suspects in police detention in The Haque were visited by the team in 1977 and 1978. It would seem reasonable to conclude that a permanent team of social workers is an appropriate way to organise early intervention work in big cities.

Despite the choice of a form of organisation involving the use of a permanent team the survey revealed that not all the objectives of early intervention work were being achieved. As became evident, the main significance of such work lay in providing direct assistance, such as supplying information, settling practical matters and lending emotional support. The other objectives of early intervention were achieved only to a more limited

extent. It is therefore desirable that a further look be taken at these objectives and the feasibility of attaining them.

2.2 Commercial Sex Enterprises in the Netherlands – an inventory of manifestations and peripheral manifestations

Research and Documentation Centre, 1977.

Dr. C. van der Werff
A. A. van der Zee-Nefkens

This report contains the results of a study of commercial sex enterprises in the Netherlands. The details were obtained through a survey carried out among the burgomasters of all 842 Dutch municipalities. The aim of the study was to form a picture of the current situation in and relating to the commercial sex industry in the Netherlands, with a view to developing well-considered, long-term policy of nationwide application.
Before attempting to formulate any general conclusions on the basis of the results referred to, the most significant findings will first be summarised.

Extent of the manifestations
Of the 827 burgomasters who returned the completed questionnaire, 202 (24%) stated that their municipality contained one or more commercial sex enterprises. In this report, 'commercial sex enterprises' denotes: window prostitution, street prostitution, roadside prostitution, café or bar prostitution, 'closed houses' (including brothels), sex-clubs, sex-shops, sex-cinemas and sex-saunas. Also included are the so-called 'contact agencies' and the institution of call-girl or call-boy.
The majority of commercial sex enterprises have long been concentrated in the urban areas, with the exception of the closed houses (other than sex-clubs), the sex-shops and the small sex-cinemas (with fewer than fifty seats). The last three categories are also fairly well represented in the smaller localities, although the commercial sex industry is unknown in most small towns and villages.
Considered on the national scale, the commercial sex industry appears to have grown slightly in the last two years. There have also been shifts of emphasis here and there.

Scope of the problem
The burgomasters' returns reveal that in 72 municipalities the presence of commercial sex enterprises has given rise to problems. This represents 36% of the 202 municipalities containing one or more commercial sex enterprises (and 9% of all Dutch municipalities).
The municipalities which are encountering (or have encountered) problems include 29 large or medium-sized towns and 43 small towns or villages. Of these 72 municipalities, 13 stated that the problems had still not been solved. This means that 6% of the municipalities where commercial sex enterprises exist are wrestling with unsolved problems.

Nature of the problems
The three problems most commonly referred to are complaints concerning unwanted confrontation (sex displays and unwelcome soliciting) (46 municipalities), followed by complaints arising from noise nuisance (32 municipalities) and complaints concerning unfair competition in the hotels, inns and refreshment houses sector (29 municipalities).
Unwanted confrontation and noise nuisance are not restricted to any one type of sex enterprise; they are referred to – inter alia – in connection with window prostitution, sex-shops, sex-clubs and sex-saunas. Complaints from the hotels, inns and refreshment houses sector concerning unfair competition relate in the main to sex-clubs operating without the requisite licences.
It appears that there are some 250 sex-clubs or similar establishments in the Netherlands which serve alcoholic drink without possessing the requisite licence, and some 100 sex-clubs or like establishments where floor-shows are presented without the requisite licence having been granted. Unlicensed film shows take place in some 300 establishments. The requisite licences have been granted to the operators of sex-clubs or sex-cinemas in some 20 cases.

Government policy municipal councils wish to see adopted
Forty-eight municipalities (i.e. 24% of the 202 municipalities previously referred to where one or more sex enterprises are located) regard criminal prosecution in relation to one or more aspects of the commercial sex industry as being desirable. Insofar as such prosecution is regarded as desirable, it is not always considerations of morality that play a role. Sixteen municipalities presented only practical arguments, such as combating

the provision of alcoholic drink without a licence and failure to satisfy fire and other safety requirements. Of the 32 municipalities (i.e. 16% of the 202 municipalities with a commercial sex enterprise) whose arguments fall within the sphere of morality, 23 also mentioned the practical reasons just referred to. Nine municipalities put forward purely moral considerations. These figures show that in the case of most municipal councils which regard criminal prosecution as desirable practical considerations, as well as moral considerations, play a role, whereas some municipal councils regard such prosecution as important even for purely practical reasons. As far as the moral aspects referred to are concerned, it is worth noting that the principal consideration is the prevention of unwanted confrontation.

Discussion

From the results of the study it may be concluded that the municipal councils are directing their efforts towards controlling the establishment of commercial sex enterprises and restricting their undesirable side-effects by means of local bye-laws and a licensing system. The impossibility of conducting a local licensing policy with regard to the provision of alcoholic drink in sex establishments and to the showing of sex-films is regarded by many municipal councils as constituting an undesirable state of affairs. Quite apart from the effect on relations between commercial competitors, such a fluid situation with regard to the enforcement of the Licensing and Cinemas Acts also has drawbacks in the area of hygiene and from the point of view of safety and fire prevention.

In general it seems that the administrative approach called for would require that the Public Prosecutions Department should in principle abandon the criminal prosecution of operators of sex-clubs, sex-cinemas and sex-shops etc. on the grounds of the legislation governing public morality (Articles 250 bis, 239 and 240 of the Netherlands Criminal Code), and in so doing enable the municipalities to tackle the problems relating to commercial sex enterprises by means of administrative measures. As to how this could be done, several important suggestions have been made in the report of the Association of Netherlands Municipalities cited above.

The conclusion seems warranted that the municipal councils prefer an administrative approach, which would necessitate a certain amount of 'legalization' of sex enterprises. Such a conclusion is broadly in keeping

with the recommendations of the Advisory Committee on Public Morals Legislation*.
The Public Prosecutions Department is of course responsible for the enforcement of the law at both national and local levels. In line with present-day thinking, criminal prosecution is regarded as a last resort, to be fallen back on only when all other measures have proved inadequate. This means (in our opinion) that the Public Prosecutions Department must have important reasons – reasons relating to its own specific task – for following a line with regard to prosecutions in the area of public morality which differs from the wishes of the local authority.
Just how far the local authority is representative of the thinking of the population is another matter. To gain some insight into this question – and also to follow up the argumentation which recently led the Amsterdam court to refer the 'Deep Throat' case back to the Examining Magistrate** – one might well consider carrying out an investigation among the population in order to ascertain what it finds morally offensive.
In such an event it should be borne in mind that in a recent report by the Netherlands Institute for Socio-Sexological Research (N.I.S.S.O.) specific reference is made to the limited significance that such an investigation would have. The report pleads rather for an investigation of the effects of sex displays and the depiction of sex on people's attitudes, moral conceptions, patterns of behaviour, etc. in the sexual fields***.

2.3 Staff and Regime – attitudes and opinions of prison staff in two penal institutions for medium-term prisoners

B. van der Linden

Introduction
Medium-term prisoners are prisoners serving custodial sentences of 1 to 6 months after deduction of the time spent on remand awaiting trial. At the request of the Prisons Directorate a study was instituted with the aim of evaluating policy with regard to this category of prisoner. Central to the study is the question of what effect the two existing institutions for adult medium-

* See the Tweede en Derde Interimrapport van de Adviescommissie Zedelijkheidswetgeving, Govt. Publishing Office, The Hague, 1973 and 1977 respectively.
** It concerns the examination of the evidence in a test case brought by the Association of Netherlands Cinemas; the court in Amsterdam adjourned its hearing on 6 October 1977.
*** Straver, C. J., Sex-uitbeelding en sex-verbeelding, Report of the Netherlands Institute for Socio-Sexological Research, Zeist. October 1977.

term prisoners – the Penitentiaire Vormingsinrichting 'Nederheide' at Doetinchem (the training prison hereafter referred to as the P.V.I.) and the 'Boschpoort' prison in Breda – have on their inmates.
The study has a separate section devoted to the operation of the two prison regimes. For this purpose, a participatory investigation was carried out in the two institutions and semi-structured interviews conducted with those members of staff who in the course of their duties come into regular contact with the inmates: group leaders, prison officers and work supervisors in the case of the P.V.I. and prison officers and work supervisors in the case of Breda.

Points of departure and characteristics of the two prison regimes
The thinking which forms the basis for the two prison regimes is quite divergent. Within the P.V.I. great emphasis is placed on the rehabilitation principle laid down in section 26 of the Prisons Act. An effort is made to limit the potentially damaging effects of detention and to permit prisoners to return to society more able to cope for themselves than was previously the case. In 'De Boschpoort' the emphasis lies on security and the uninterrupted execution of the prison sentence, while only very limited attention is paid to the rehabilitation of prisoners.
But wide differences exist not just in the thinking underlying the regimes, but also with regard to their structure. In the P.V.I. the inmates serve their sentences in a group with other prisoners and for the first 5 to 6 weeks of their stay spend half of each working day participating in a training programme. They spend the remaining half working days and the whole period after the conclusion of the training programme working. The atmosphere in the institution is relaxed: the prisoners enjoy a very real amount of freedom within the institution and there are few regulations of a restrictive nature. In 'De Boschpoort' the inmates spend most of their time behind the locked doors of their cells. Only for certain activities, of which work is the most important, do they leave their cells. The atmosphere here is far less relaxed than within the P.V.I. There is a multitude of regulations which the prisoners must adhere to and they enjoy only very restricted freedom of movement within the building.

Attitude of staff to inmates
The results of the interview research reveal that the

differences in the thinking underlying the two regimes are also manifest in the attitude of prison staff to inmates. The staff at Breda lay more emphasis on discipline and strict compliance with the regulations, while the staff at the P.V.I. are somewhat more concerned with the prisoners' needs and problems. Moreover, in 'Nederheide' the staff evince greater trust in the inmates and associate with them more often. Finally, in situations where various behavioural options are open to them, the prison officers in Breda show less inclination to associate with prisoners than do the group leaders in the P.V.I.
Also investigated was the question of what prisoner-related problems were reported in both institutions. Judging by the nature of the problems reported, one may conclude that in 'De Boschpoort' the staff approach their work more with a view to reporting problems, whereas in the P.V.I. it was more a case of how they could be solved. Obvious problem groups in both institutions are drug users, foreign prisoners and persons from Surinam.

Staff experience and assessment of the regime
In general the staff of both institutions appear to be satisfied with the prison regime as a whole, although such satisfaction is greater in 'De Boschpoort' than in the P.V.I. If we consider the extent to which the institution personnel questioned feel that insufficient attention is paid to certain aspects of the regime, it appears that a significant proportion of the staff in 'De Boschpoort' consider that more attention ought to be paid to the rehabilitation of the inmates and to encouraging them to display independence, a sense of responsibility and creativity within the institution. Moreover, some feel that more flexible enforcement of the rules should be possible and that more attention could be paid to fostering an atmosphere of trust between staff and prisoners. In the case of the P.V.I., a not insignificant minority of the staff feel that there is a lack of security, dicipline and clarity within the institution.

Consultation and staff relations
Finally, the study also looked at the formal and informal consultation structure and at staff relations in both prisons. In the P.V.I. far more consultation takes place on the approach to be adopted to prisoners than in the prison in Breda, a fact which can probably be accounted for by the regime context.
Within the P.V.I. regulations play a much less dominant

role than in 'De Boschpoort' and the staff enjoy much greater freedom in their choice of approach to the prisoners. For the sake of consistency in approach, therefore, there is a greater need for consultation within the P.V.I. than in 'De Boschpoort'. In the latter, such consistency is to a large degree guaranteed by the regulations. Nevertheless, despite the fact that more consultation takes place in 'Nederheide', there appear to be certain categories of staff there too who are scarcely involved in any consultation and who feel they are thereby missing something.
In both institutions, staff relations can generally be described as good. This applies both to relations between general staff and supervisers and managerial staff, and to mutual relations between the various categories of general staff.
Nevertheless, the majority of work supervisors in the P.V.I. report a (noticeably) great difference in approach between themselves and the group leaders. A similar difference would also appear to exist between work supervisors and prison officers in 'De Boschpoort'.

Conclusion
The regime in the prison in Breda may be characterised as 'order or organisation-oriented' and that in the P.V.I. as 'prisoner-oriented'. In a prisoner-oriented regime the interests of the prisoners have priority, while in an order-oriented prison regime organisational considerations take precedence. In the latter type of regime the strict application of a multitude of regulations affords a large measure of clarity as far as the staff's approach to the prisoners is concerned. Here there is a strong element of uniformity and predictability in the way inmates are dealt with.
In a prisoner-oriented prison such as 'Nederheide', the constantly changing needs and problems of the inmates call for a flexible response on the part of the staff, and this may lead to wide divergences in the way the various members of the institution staff approach the inmates. The increased flexibility which such a prisoner-oriented regime involves means that the staff have a considerably more difficult task. In order to deal with this problem, such a regime must be accompanied by a smoothly functioning communication structure involving all sections of the staff who regularly have to deal with inmates.

2.4 The work of the Probation and After-care Agencies: attitudes and views of the probation staff – a study of the allocation of time by and the functioning of probation teams.

Research and Documentation Centre, 1979

J. L. P. Spickenheuer
Dr. M. J. M. Brand-Koolen

Object and design of the research
In 1976, at the request of the 'Vereniging van Reclasseringsinstellingen' VVRI (Association of Probation and After-care Agencies), the Research and Documentation Centre undertook to carry out a study of rehabilitation work. The project was to comprise three stages: time-allocation, attitudes and views of the probation workers and, lastly client studies.
The aim of the first part of the project was to investigate how the rehabilitation staff divide up their working time, in order among other things to determine their case-load. This time-allocation study was published in 1978.
The aim of the second part of the project is to use three central themes in order to investigate the feelings that probation workers entertain concerning their work. The three subjects are:

- the objectives of, and working attitudes adopted within, the assistance process;
- the assistance rendered at the various stages of contact with police and Courts; and
- the areas in which the probation workers require support in discharging their duties. In addition a number of other subjects are dealt with, such as the division of work within the teams, further specialised training and ideal allocation of time.

For this part of the research, use was made of the services of the same probation teams as had taken part in the sample tests in the time-allocation inquiry. In view of the wide variation in the number of workers per team, the sample was taken on a stratified, proportional basis. This meant in addition that the three agencies involved were represented in proportion to their size. Finally, when taking the sample a distinction was drawn between the teams in the major cities in the west of the country and those elsewhere.
The study ultimately covered approximately a quarter of

the probation workers of the 'Algemene Reclasseringsvereniging' ARV (General Probation and After-care Association), the Salvation Army and the Alcohol and Drugs Consultation Bureaux (N = 255). The semi-structured questionnaire was adopted as the means of investigation. The final form of the questionnaire was fixed after the question had been tested in two teams which did not participate in the sample test. The questionnaires were filled in individually by the probation workers during meetings of their teams.

Results

– Objectives and working attitudes

The probation workers distinguish three objectives within the assistance process, viz. the provision of assistance aimed at enabling the client to function as a person, the provision of assistance directed at material support, and, finally, encouraging the client to become socially aware.

In addition, five working attitudes may be distinguished, viz.: encouraging clients to shoulder personal responsibility; leaving clients free to choose; making clients show initiative; taking the side of the clients; and doing what is in the client's best interests.

It would appear that in the discharge of their duties the rehabilitation agencies concentrate in large measure on rendering psychosocial assistance aimed at effecting a change in the personal behaviour of the client. To achieve this, an attempt is made to enable the client to become aware of his own behaviour and of the ways in which it could be improved.

It is also important to encourage the client to assume a sence of personal responsibility and to show initiative. In practice, too, it has been shown that most time is spent on doing precisely this, some indication of which had already been provided by the results of the time-allocation study, which showed that contacts with clients take place mainly at the office, in a conversational atmosphere.

Despite the fact that it is the experience of more than half the probation workers themselves that clients mainly desire help in solving practical problems, they themselves believe assistance on *material issues* to be somewhat less important than psychosocial assistance. It appears that in practice, too, the staff get around to rendering such material assistance less frequently, though the reasons for this are mainly of an external nature. Similar indications were also disclosed in the first stage of the project: there it was found that in

providing practical assistance relatively little time is spent on contacting various institutions. Moreover, the probation workers regarded such activities as being the least relevant.
Those who accord a higher priority to rendering material assistance also appear to be inclined to operate on the principle that what they believe to be in the client's best interests must also be accomplished, and they are also less inclined to adopt a working attitude which would leave the client free to choose or mean waiting for him to take the initiative.
The probation workers regarded making the clients *socially aware* as the least important provision of assistance. As it is, the workers quite often meet with impedements, notably lack of time. Those who attach importance to social awareness appear to have more of a tendency to take the side of the client and to be less inclined to do what they believe to be in the client's best interests.

- The stages of contact with police and Courts
Practically all rehabilitation service workers attach great importance to guiding clients through the due processes of law, right from early intervention through to after-care. In the first instance, it is a question of improving the client's performance and of rendering assistance with various problems which the client encounters as he progresses through the system.
In drawing up pre-trial reports, great attention is paid to the client and to what his feelings are about the situation in which he finds himself. Accordingly, in preparing such reports very considerable importance is attached to what the client has to say.
Attending the court hearing and visiting those in custody are both regarded by the probation workers as being important, and in general they manage to do both. This would seem to conflict with the results of the time-allocation study, which showed that very little time is spent on these activities. The apparent contradiction can however be accounted for by the fact that only a small percentage of rehabilitation clients are at the court-hearing stage or in custody.

- Areas in which the probation workers require support
It has been shown that social workers have a great need for guidance in their work. Such guidance is sought particularly from their superiors and colleagues. When this is taken into consideration, it would seem that the amount of time spent on such guidance and support, as

evidenced in the time-allocation study, does indeed meet a real need. Furthermore, probation workers appear to feel a strong need for further specialised training, and in particular training in the therapeutic field.

Recommendations
The results of the research seem to indicate that the probation and after-care agencies have already to a large extent determined what their work should involve, viz. the provision of psychosocial assistance aimed at improving personal performance. Furthermore, they appear to feel that, given further specialised training, their present course is the right one.
In the light of results obtained from other research, however, the question must be asked here whether this path is indeed the right one. It is highly probable that with the present methods of approach the needs of clients are perhaps not receiving the attention they deserve. The present researchers recommend therefore that ways be sought of achieving a more specific alignment with these needs. They further wish to point out a number of possible openings for rehabilitation agencies within the criminal law system. They consider it desirable to carry out a number of experiments within that system in the field of, among other things, early intervention and pre-trial reporting work.

2.5 Detention at the Government's pleasure or prison sentence?

Research and Documentation Centre, 1979

E. G. M. Nuijten-Edelbroek

Introduction
In cases where the measure *ter beschikkingstelling van de regering** (detention at the Government's pleasure) has to be implemented, assessing the need for care facilities in appropriate institutions has always posed a problem. In particular, the 'supply' of patients by the Courts and the indeterminate length of the period to be spent 'inside' constitute variable factors in the planning of capacity. Further, and particularly in the seventies,

* Hereafter referred to as TBR. See also J. Krul-Steketee: Mental Health Legislation in the Netherlands: Criminal Law; in International Journal of Law and Psychiatry, Vol. 2, pp. 455-467, 1979.

there has been an increase in the number of prisoners who, while serving their custodial sentence, have been transferred to a TBR-institution (forensic psychiatric hospital) or other mental hospital under articles 47/120 of the Prison Ordinance ('Gevangenismaatregel'). The possibility of a broader application of articles 47/120 of the Prison Ordinance is adumbrated in section 12a of the TBR Bill, which dates from as early as 1972. At the request of the TBR Directorate of the Ministry of Justice, the Research and Documentation Centre instituted a study aimed at obtaining a better picture of policy relating to TBR and psychiatric background reports. The aim of the three component parts of the study was to ascertain:

1. How many and what sort of persons in recent years received prison sentences of 1 year or more and/or were made subject to the TBR-measure; and how many, and which, of these prisoners were placed in TBR-institutions or other mental hospitals.
2. Whether there are any demonstrable characteristic differences between:
- persons made subject to the TBR-measure;
- persons who were given unconditional prison sentences *and* TBR, and who, before the end of their custodial term, were transferred to TBR-institutions under articles 47/120;
- prisoners transferred to TBR-institutions or other mental hospitals under articles 47/120 without having been made subject to the TBR-measure;
- long-term prisoners.

   And if so, what are these differences?
3. What factors coincide with, and possibly influence, the shifts in the pattern of sentencing and in the population of TBR-institutions manifest in recent years.

The first two parts of the study, based on information on file, have now been concluded and reported on. The first part considered how often in the period 1970-1976 (inclusive) TBR was imposed, how often unconditional prison sentences of one year or more were handed down and how often persons in custody were transferred to TBR-institutions or other mental hospitals on the ground of article 47 or 120 of the Prison Ordinance; and have these figures, considered both in absolute and relative terms, remained reasonably constant or is there any sign of an increase or decrease? In the second part of the study, personal and prison files and abstracts from the Judicial Documentation Registers were used to assemble details of persons who

were made subject to the TBR-measure and persons who received unconditional prison sentences of one year or more. In this study too separate attention was paid to prisoners who were transferred to TBR-institutions from institutions within the prison system. The data collected related to the type of offence (both the offence for which the prisoner was committed and also to previous offences), to the presence of psychical problems, to the existence of personality development problems and to personal characteristics such as age, adolescence, education and occupation. In view of the wide range and complexity of the information on file the second part of the study was restricted to sentences passed in 1974. An attempt was made to ascertain whether the data available on file could reveal any difference between persons made subject to the TBR-measure, persons with custodial sentences *and* TBR transferred to TBR-institutions or other mental hospitals under articles 47/120, prisoners transferred to TBR-institutions or other mental hospitals under articles 47/120 without having been made subject to the TBR-measure, and long-term prisoners.

Results

The first investigation revealed that persons who were made subject to the TBR-measure without having to face full criminal prosection in the Courts made up only an insignificant part of the total number of TBR-patients, in fact about 10 to 15%. The Majority of persons made subject to the TBR-measure were also given unconditional prison sentences. In the period 1970-1976 (inclusive) between 85 and 100 persons were made subject to the TBR-measure every year. An exception was the year 1971, when 123 times TBR was imposed. After a short period when the number dropped we again find a rise in 1975 (87) and in 1976 (94). Such an increase however is mainly accounted for by the number of persons who both received a prison sentence *and* TBR; in 1975 64 persons and in 1976 76.

When we look at the number of persons taken into special hospitals for treatment each year, there is still no discernible trend. Owing to the implementation of conditionally imposed TBR and the possibility of transfer on the ground of articles 47/120 of the Prison Ordinance, the number of persons taken into TBR-institutions or other mental hospitals in each of the years under study was higher than the number of times TBR was imposed; it varied from 143 in 1971 to 113 in 1973 and 120 in 1976.

The increase in more recent years is accounted for mainly by an increase in the number of prisoners placed in a TBR-institution on the grounds of articles 47/120 of the Prison Ordinance; this also includes prisoners who, in addition to receiving an unconditional prison sentence, were also made subject to the TBR-measure.
The second investigation showed that the records reveal a number of points of difference between persons made subject to the TBR-measure and long-term prisoners. Those made subject to the TBR-measure had a less fortunate childhood and/or youth; the records related instances of eviction, domestic rows, problems at school, parental divorce and contact with the police at an early age.
They had more frequently received sentences for offences involving violence or for offences against property involving the use of violence against persons. The records show that the circumstances surrounding the offence and the person of the perpetrator indicate the presence of mental problems in the case of persons made subject to the TBR-measure. It appears, too, that such persons had more frequently received psychiatric treatment or help at an earlier date. Psychiatric reports had been drawn up in 92% of TBR-cases, as against a mere 36% of prisoners serving long-term sentences. Such reports make more reference to mental problems and difficulties in personal development in the case of those made subject to the TBR-measure than in the case of those serving long-term sentences.
To judge by the nature of the psychiatric recommendations, it may be assumed that it is only for a particular category of offender that the degree of accountability would appear to cause any difficulties in determining the nature and severity of a sentence; the persons in question are in fact those who, according to the psychiatric reports, were considered to show diminished responsibility, but who were given long-term prison sentences or TBR in combination with comparatively long prison sentences. They included a relatively large number of persons who were transferred on the basis of articles 47/120.
In the case of these prisoners, the reports mostly revealed virtually as many instances of mental disturbance as in the case of those made subject to the TBR-measure. It can be assumed that their long past of serious crime and the everpresent risk of recidivism will have contributed towards the imposition of long-term prison sentences in combination with TBR.

Conclusions
The first investigation a particular increase in the number of persons transferred from custody to TBR-institutions on the grounds of articles 47/120 of the Prison Ordinance. The broadening of the possible application of articles 47/120 of the Prison Ordinance in the TBR Bill will continue this trend, and will mean that this category of prisoner will make a relatively large demand on the capacity of institutions with treatment facilities.
The established differences and similarities between persons made subject to the TBR-measure and persons sentenced to (long-term) prison sentences leads one to believe that for a certain group of offenders the objectives of punishment and treatment are not regarded as being reconcilable.
On the one hand, recognition is given to diminished responsibility, on the other hand long-term prison sentences are regarded as desirable in view of the ever-present, serious risk to society. The protective nature of the TBR-measure seems to have been called in question.
In its place, it seems that the protection of society is being sought in long-term unconditional prison sentences.

2.6 Criminal defamation

Research and Documentation Centre, 1979

J. J. van der Kaaden

Following the Parliamentary debate on the Ministry of Justice's Budget for 1968, the RDC was asked to investigate the nature and extent of cases of defamation disposed of by the courts and the effects of police action in this connection. During the debate, the subject of prosecution policy in cases of defamation of heads of friendly nations was discussed at length, and the question was also raised whether article 117 of the Criminal Code should be amended or revoked. The Government undertook to appoint a working party to study the matter. The working party, under the direction of G. E. Langemeijer, did not, however, restrict itself to article 117, but also examined the other clauses of the Criminal Code relating to criminal defamation. A debate was then held in the Second Chamber of Parliament on the question whether the

penalty for simple defamation in the Criminal Code should be retained or not. The Minister stated in his Memorandum of Reply that he considered that the pros and cons of depenalization could not be properly judged until more information was available about the nature of the cases of defamation that had been brought before the courts in the previous years.

The first part of the research consisted of a study of the court files of all cases of slander, libel (261 CC) and simple defamation (266 CC) dealt with by the courts in 1971, 1973 and 1975. One of the aims of the research was to examine to what extent the single fact that at present the police are authorized to take action – which they would not be if defamation were no longer to be an offence – helps to resolve disputes or to prevent escalation of disputes.

Several police officers were interviewed in order to find out how the police proceed in this type of case. The interview always concentrated on cases the interviewee had dealt with himself.

During the period in question there was a steady decrease in the number of cases lodged with the Public Prosecutor's Office. Whether this is evidence that people are tending less and less to take offence is an open question. The results of the interviews showed that in most cases the police themselves disposed of this kind of complaint.

The survey of the files showed that the persons involved in this type of offence were on average somewhat older than in the case of other offences, and the group contained a relatively large proportion of women. There was no evidence that any groups were particularly liable to be the victim of defamation. As in most of the cases the defamation had its roots in a dispute that had existed for some time, it would seem to be the circumstances as much as anything that induce a person to use insulting language. Generally the insults happened in the daytime in public places or in the vicinity of the home. In most cases offender and complainant were acquaintances, and very often they were neighbours or relatives.

As already noted, the interviews showed that in most cases the police were able to resolve disputes at the station. People did not usually go to the police with the express intention of lodging a complaint, and generally they had no knowledge of the procedure for taking legal action. It was therefore concluded that even if defamation were to be decriminalized the police would still very largely be responsible for resolving disputes.

It is a fair assumption that the police will always remain involved in this type of dispute. Since a policy of non-prosecution is already widely followed, decriminalization of the offence is not likely to make much difference, nor would a change of 'status' from felony to misdemeanour be of any benefit. Many arguments in favour of decriminalization of simple defamation – particularly those based on the view that the criminal law is an 'ultimum remedium' – have not of course been discussed and therefore they remain unrefuted.

2.7 The enforcement of suspended sentences

Research and Documentation Centre, 1979

J. J. van der Kaaden

At the request of the Assembly of Attorneys-General an investigation was conducted into the extent to which suspended sentences are enforced and the factors involved in the decisions taken to this end. In order to ascertain the number of suspended sentences that are enforced it is necessary to concentrate on persons who have received suspended sentences and who have violated the general or special conditions during the probationary period as these are the persons who are liable in principle to have their sentences enforced.* As the records contained only very scant information, however, it was not possible to make a thorough comparison of the cases in which enforcement is ordered and those in which it is not. When the research was being planned, therefore, an attempt was made to find the best possible alternative.

Research design

The investigation centred on two questions: first, in how many cases could the suspended sentence have in principle been enforced, and second, what factors are involved in the decisions to apply for suspended sentences to be enforced (under article 14a et seq. of the Criminal Code). The purpose of collecting the data was therefore not only to obtain a quantitative picture but also to clarify the relationship between case factors and

* For non-Dutch readers, it may be useful to note that in the Dutch criminal justice system, the Public Prosecutor is expressly empowered to apply for enforcement of suspended sentences in such cases. The court then decides whether there are grounds for ordering enforcement.

procedural factors on the one hand and decisions to apply for enforcement on the other.
The facts of each case could for the most part be obtained from the notices of suspended sentence ('kennisgeving voorwaardelijke veroordeling'), which the various Public Prosecutors' Offices send to the Central Bureau of Statistics (CBS) and on which the CBS records particulars of any later violations of the conditions of the suspended sentence.
Only limited information about the procedural factor, however, could be obtained from the court documents. The copy of the relevant entries in the General Documentation Register that is kept in the offender's file showed whether the subsequent offence was committed in the same court district as that in which the suspended sentence was imposed. In order to find out how a Public Prosecutor's Office in a given district found out about a further offence committed in another district by a person subject to a suspended sentence, the researcher had to visit the offices concerned. The procedure of notification warranted investigation as according to Dutch law only the court which imposed the suspended sentence can order enforcement and not the court in the other district which dealt with the subsequent offence.
To ascertain and illustrate the administrative factors which can affect enforcement policy, a number of public prosecutors and court registry officials in various districts were interviewed.

Results
In order to ascertain correctly the proportion of suspended sentences which are enforced, it was necessary to determine the number of cases in which enforcement was possible in principle. The general or special conditions were violated in 36 per cent of the cases in which suspended sentences were imposed in 1972 and in 15.6 per cent of these cases the public prosecutor demanded enforcement. Both the use made of suspended sentences and the frequency with suspended sentences are enforced varied greatly from district to district.
The two case factors which weighed the most heavily in decisions to enforce suspended sentences were if the subsequent offence was of a similar nature to the orginal one and if it was of a serious nature. Enforcement is also ordered more often by a court sitting with more than one judge than by a judge or magistrate sitting singly.

The interviews with the representatives of the Public Prosecutions Department showed that in many cases there was a connection between attitudes to the function of suspended sentences and attitudes to enforcement. Some regarded suspended sentences as an effective individual penalty and others saw it as a sort of intermediate penalty, less severe than an unconditional term of imprisonment but more severe than a fine.
The study also showed that communication between the various Public Prosecutor's Offices was not always all that it might have been with regard to the procedures to be followed when applying for enforcement. Since most of the Public Prosecutors had a strong preference for combining the two sets of proceedings, the likelihood of the suspended sentence being enforced depended on where the subsequent offence was committed. In some court districts the cases are never combined in practice, so that the inclination to apply for the suspended sentence to be enforced is markedly less.

2.8 R.D.C. Victim Surveys 1974-1979

Research and Documentation Centre, 1979

Dr. J. J. M. van Dijk
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Every year since 1974 the Research and Documentation Centre has carried out surveys in which a representative sample of the population of the Netherlands was asked whether they had been the victims of a particular type of offence in the previous year. Comparison of the results of the five surveys to date reveals that most types of offence present a fairly constant picture over the years 1973-1975. In 1975 there was a slight increase in certain types of offence. The increase has been more marked in 1976. Since 1977 there has again been a levelling off. The most marked increases since 1975 are in the figures for the offences of bicycle theft (27%), wallet theft/pocket-picking (47%), malicious damage (54%) and threatening or violent behaviour in a public place (87%). The incidence of moped theft appears to have dropped sharply after 1974, when wearing of protective headgear by moped riders was made compulsory by law, but has begun to rise again slowly since 1976.
The probability of becoming a victim of one or more of the ten criminal offences listed in the survey in the years 1976, 1977 and 1978 was 17.8%, 18% and 18.8%

respectively, while the probability of becoming a victim of two or more offences was 4.0, 4.3 and 4.0% respectively. In the course of a year, therefore, one out of every five or six Dutchmen comes in contact with one of these forms of crime.
The offences with which a large section of the population come in contact every year are not, generally speaking, of a particularly serious nature. The total cost of petty crime against private individuals at present amounts to some five hundred million Dutch guilders per annum.
In 1977 0.1% of the population of the Netherlands sustained injuries as a result of some form of assault for which medical treatment was required.
The percentage of the population which suffered comparable injuries as a result of motor-vehicle accidents for which they were not responsible was 0.8%.
It frequently happens that persons responsible for causing car accidents in which injuries are sustained drive on without giving their names ('hit and run' cases). In 1977 this was the case in some 20% of accidents in which injuries were sustained by the persons collided with. The victims of such traffic offences are mostly cyclists. In the Netherlands, the probability of sustaining injuries through the fault of the driver of a motor vehicle who drives on after an accident is three times as great as the probability of receiving injuries as a result of a form of assault.
In 1977 crime increased in Amsterdam and Utrecht. In Rotterdam and The Hague it remained at the 1976 level. The level of crime in Amsterdam, already above the national average in 1976, surged still further ahead in 1977, when one in six inhabitants of that city was the victim of two or more offences. On the other hand, Rotterdam and Maastricht are among the safest cities in the country.
The probability of the average Dutchman becoming the victim of an offence is 1 in 5.15. However, the risk of becoming the victim of an offence is not spread evenly over the population. An attempt was made to ascertain whether particular factors – e.g. differing age groups, various sizes of community, social milieu and sex – increase or diminish a person's risk of becoming a victim. The most significant factor in increasing such a risk turns out to be: being under 25 years of age. For persons under 25 the probability of becoming a victim is more than twice as great as for other Dutch citizens. On the other hand, an age of 65 years or more is precisely the most significant factor in diminishing such a

probability. In addition to age, the probability of becoming a victim is strongly influenced by the size of the community in which a person resides. Living in one of the large cities doubles the likelihood of becoming the victim of an offence. Residence in a small community diminishes the probability. Finally, those belonging to the higher social classes and men are shown to run a slightly higher risk of becoming victims than the rest of the Dutch population. The various risk factors may, of course, reinforce (or counteract) each other. The section of the population with the highest risk if formed by the population group of persons 'under 25 years of age, resident in Amsterdam, The Hague, Rotterdam or Utrecht, upper social class, male sex'. The probability of this group becoming victims is 1 in 0.65, or 60%. The section of the population made up by women over the age of 65 who live in a small village and belong to the middle class runs a risk of 1 in 28, or circa 4%. The table of risks included in the research report provides a basis for calculating the degree of risk to which all sections of the population are exposed.

The risk of private individuals becoming victims seems to be determined by three main factors. The first is the attraction factor, i.e. the extent to which a person is an attractive target for criminal activity. The attraction may be of an economic or psychological nature. Persons who have many visible possessions run a greater risk of crime against property.

Young girls run a greater risk of being indecently assaulted in a public place. Adolescents are more likely to be provoked into becoming involved in a fight. The second risk factor is the proximity factor. Just how close a person is to potential offenders is determined by his place of residence and living habits (how often and when and where he goes out and goes shopping, and his mode of transport). The third factor is the exposure factor, which has to do with the extent to which a person has taken steps to secure his belongings and to which he is protected against crime by third parties.

To test such a theoretical analysis of the risks, it is necessary to study the correlation between the empirical indicators of these three main factors and the victimisation risks. Such study could provide valuable starting-points for tackling the problem of crime prevention. On such a basis it would be possible to determine the target groups at which to direct crime prevention programmes, while at the same time light would be shed on the factors responsible for the vulnerability of these groups.

In anticipation of the results of such a study, an attempt

has been made to interpret the findings of the general sociographic analysis of risks with the aid of the three factors distinguished. It would seem that the differences established in relation to the risk the various sections of the population run of becoming victims must be regarded primarily as an effect of the proximity factor. The high risk run by young persons would seem to result from a life-style which brings them into frequent contact with potential (young) offenders. The high percentage of victims among the population of the large cities would appear to be a logical consequence of the relatively large number of potential offenders who live there. The high risk run by persons belonging to the upper social classes cannot, it seems, be accounted for by the proximity factor. In their case, it would appear that both the attraction factor (many possessions) and the exposure fator (easily accessible houses) play a role. The relatively small risk to elderly persons and women between the ages of 25 and 50 (who do not work outside the home) has again, it seems, to do with the proximity factor. Those two groups are after all largely tied to the home, so that they have less chance of coming in contact with potential offenders. This also means that their homes are subject to constant surveillance (exposure factor).

In sum, it may be concluded that the probability of becoming the victim of an offence increases in correlation with the extent to which a person leads a more active social life outside his own immediate family circle.

Seen in this light, vulnerability to criminal activity is the corollary to a modern, urban style of living. Accordingly, there is probably a limit to what the private individual can do towards crime prevention.

In 1977 and 1978, 44% of the victims of petty crime informed the police as compared with 55% in 1975. The percentages reported are lowest for the types of offence 'violent or threatening behaviour in a public place' and 'indecent assault' (around 25%) and highest in the case of burglary and car theft (around 90%). There was an expecially noticeable drop in the percentages reported for the categories 'indecent assault' and 'bicycle theft'.

It appears that the decision whether or not to inform the police depends in the first instance on the seriousness of the offence (extent of the damage, gravity of the injury). Apart from that, the decision is also dependent on the extent to which the victim himself has taken measures to prevent an offence occurring.

Persons who have taken such measures are more inclined to inform the police. It is generally true that older people and inhabitants of small communities are somewhat more inclined to inform the police than young people (under 25 years) and inhabitants of the large cities respectively. Differences in this regard are also in evidence between the large cities themselves.
In Amsterdam and Utrecht the percentages notified are much lower than in for instance Rotterdam. In the area with most crime there is evidently least willingness to cooperate with the police. There are no indications that the low percentages reported in heavy crime areas are the result of greater tolerance of certain types of crime on the part of the local population. The reason must rather be sought in the low esteem in which – in the light of past experience – the detection ability of the police is held. The victims of offences against property who do not inform the police mostly give as their reason for not doing so that to do so 'would accomplish nothing', is 'useless', or that 'the police do nothing anyway'.
The persons who had notified an offence to the police were asked in the survey whether they signed a written statement. The replies show that in 1976, 1977 and 1978, 35%, 41% and 35% respectively of offences notified were not made the subject of official police reports. Comparison of the notifications recorded with those not recorded shows that in deciding whether or not to prepare an official report, the police mainly pay attention to the seriousness of the offence. Cases of threatening behaviour where no injury requiring medical attention is inflicted are not as a rule made the subject of official reports. Similar thresholds governing the preparation of official reports exist in relation to such offences as pocket-picking, theft from cars and malicious damage. Besides the seriousness of the case, the mode of notification also appears to be an influential factor; in a relatively large number of cases notifications by telephone or in writing are just noted down and no further action is taken.
In order to stimulate thinking on the interaction between the 'outputs' of the various sections of the criminal justice system, a model was set up to describe the interaction between policy regarding dropping of charges and decisions not to prosecute, policy regarding the preparation of official reports, and the willingness of the population to inform the police.
The model may be summarised as follows. The (local) office of the Public Prosecutor maintains, in respect of

some categories of offence, such prosecution norms as would warrant speaking of a 'prosecution threshold' (e.g. prosecute only in cases of damage of over Fls. 1,000). After some time, the existence of such a prosecution threshold generates an 'official-reporting threshold' (e.g. no official report to be drawn up in cases involving damage of less than Fls. 200), since the police will not draw up reports on matters which will never lead to a prosecution. The height of the official-reporting threshold is therefore determined by the height of the prosecution threshold. Stability in the height of the prosecution threshold will mean that the height of the official-reporting threshold is the end result of the dynamic balance between the percentage of offences committed which are made the subject of official police reports (official-reporting percentage in the broad sense) and the percentages for omissions to prosecute. Rises in the official-reporting threshold in the broad sense will be followed by a rise in the percentage of omissions to prosecute (the less serious cases will now also be submitted to the Public Prosecutions Department). Such a rise in the percentage of omissions to prosecute will in turn be followed by a rise in the official-reporting percentage in the broad sense (the police and, indirectly, the population at large learn that there is no point in submitting less serious cases to the Public Prosecutions Department). The percentage of omissions to prosecute will thereupon start to drop again and thereafter the cycle is complete. The height of the official-reporting threshold will fluctuate around a certain fixed value, therefore, as long as the prosecution threshold remains constant.

After some time, the existence of an official-reporting threshold generates a 'notification threshold'. For instance, offences involving damage estimated at below Fls. 100 are no longer notified to the police, since it is now known that the police are not going to draw up an official report in such cases.

The height of such a notification threshold is determined by the height of the official-reporting threshold and accordingly, indirectly, by the height of the prosecution threshold. As long as the official-reporting threshold remains steady – and this is the case (within certain limits) when the prosecution threshold remains constant – the height of the notification threshold is determined by the dynamic balance between the percentage of offences committed which are notified to the police and the percentage of such notifications which become the subject of official police reports (the official-reporting percentage in the strict sense).

When the notification percentages rise, the official-reporting percentages in the strict sense drop in the long term (the police are faced with relatively fewer serious cases). The falling official-reporting percentages in the strict sense lead in turn to a drop in the notification percentages (the population at large learns that there is no point in reporting less serious matters to the police). When this happens, the official-reporting percentages in the strict sense will start to rise again and the cycle is complete. The height of the notification threshold fluctuates around a certain fixed value which is related to the similarly fluctuating value for the reporting threshold, which in turn is related to the prosecution threshold.

If at any time the prosecution threshold is raised, this will lead to a rise in the percentage of omissions to prosecute. The police reaction to such a rise will be to introduce a (still) more restrictive official-reporting policy, so producing a drop in the official-reporting percentage in the strict sense. After some time, the population at large concludes that there is little point in notifying certain types of offence to the police, and this results in a drop in the notification percentage.

When the notification percentage ceases to fall, the official-reporting percentage in the strict sense may again show some slight rise. The adjustment to the higher prosecution threshold has then taken place. The percentage of offences made the subject of official police reports now remains consistently at a lower level.

The data at present available on the situation in the Netherlands show that the percentages of omissions to prosecute for most types of petty crime rose by 10% to 15% in the seventies, which indicates a rise in the prosecution threshold. The findings of the survey reveal that it is indeed precisely the types of offence for which this has been true since 1973 that show a drop in the notification percentages. However, the official-reporting percentage in the strict sense rose slightly in 1978. This last finding leads to the assumption that no further significant sharp drops may be expected in the notification percentages for the next few years. It seems that the adjustment of the notification pattern to the raised prosecution threshold has now taken place.

In principle, it would appear to be possible to extend the model to take account of sentencing and the execution of sentences. Such a model could provide a useful tool for increasing the controllability of the criminal justice system. Police statistics do not give a complete picture of crime, since roughly a mere fifth of

petty crime is reported to the police and subsequently made the subject of official police reports. Moreover, comparison of the survey estimate of the number of official police reports with the figures from police statistics indicates that not all official police reports concerning offences reported to them are notified to the Central Bureau of Statistics. However, the utilisable value of police statistics depends primarily on the question of whether the quantitative relation between crime committed and crime recorded is constant or not. If the relationship is more or less constant, then of course figures taken from police statistics may well be used after all as an indicator of the amount of crime actually committed. The findings of the victim surveys show that the relationship between offences committed and offences recorded is not constant. For instance, in the case of the offence 'indecent assault', the visible component has decreased significantly in three years (from 24% in 1976 to 5% in 1978).

The survey results also show that the relationship between offences committed and offences recorded varies according to locality. Particularly significant in this respect are the variations between the largest municipalities. In Rotterdam, the proportion of crime committed that is recorded, is twice what it is in Amsterdam, Utrecht and The Hague. On theoretical grounds, account must be taken of the possibility that the relationship between crime committed and crime recorded will also prove variable in the future.

The public's readiness to inform the police may be adversely affected by a policy of relative reluctance on the part of the police to prepare official reports in respect of certain types of offence, while on the other hand campaigns to encourage crime prevention by private individuals may have a beneficial effect. Police recording of offences notified to them may also change in the near future.

This holds in particular for the way in which the returns for 'Criminal Offences recorded as known to the Police' are made to the Central Bureau of Statistics.

Here it appears that neither the criteria applied nor the procedures followed are sufficiently uniform. Since the returns are not subject to any systematic controls, allowance must be made for sudden changes in the way this last filter operates.

It follow from the preceding empirical and theoretical conclusions that figures from police statistics cannot in principle be employed as an indicator for petty crime. Such figures form a particularly inappropriate basis for

the evaluation of police or private crime prevention programmes, since they influence not just the patterns of crime but also the notification patterns and the official-reporting patterns.

3 Other current research projects at the Criminological Institutes and by specialist groups within the Departments of Criminal Law at Universities and Polytechnics in the Netherlands

The University of Amsterdam
'Bonger' Criminological Institute

3.1 **The history of Section 248 A of the Netherlands Criminal Code**

Researcher:
M. J. M. Salden

Supervisor:
Prof. Dr. J. van Weringh

Section 248A (1911-1971) reads: 'An adult who commits an immoral act with a minor of the same sex and whose minority he is aware of or could reasonably infer shall be sentenced to imprisonment not exceeding 4 years'. This project relates primarily to criminal law and to the developments in Netherlands criminal law prior to this provision. What led to the framing of this section in 1911? What legal principles did it claim to protect? What interests were concerned when considering whether or not such acts were to constitute a criminal offence? How did these interests win political support? Consideration is then given to how this section has been applied in the course of the years and what the consequences have been. Finally, the circumstances are examined which led to efforts to achieve the repeal of this provision and to their parliamentary success in 1971. The project will be completed by the end of 1980. The results will be published as a doctoral dissertation.

3.2 **Deviant behaviour amongst children in homes**

Researcher:
R. R. J. Landman

The aim of this project is to obtain some understanding of the position of children in homes. The necessary data which will serve as the basis for a follow-up study will be gathered by analysing the contents of the available files. In addition, a descriptive perception study using 10 case-studies will be made. The case studies will include discussions with the children and the persons and organisations involved in the process of placement in a home.
The project will be conducted in two homes for normal young people and will be completed as a doctoral dissertation in 1981.

3.3 Malicious damage in Amsterdam

General supervision:
Prof. Dr. J. van Weringh

Work supervision:
F. A. van der Kooi

At the beginning of 1979, the Municipality of Amsterdam and the Bonger Criminological Institute decided to mount a project on 'increasing aggression amongst young people', with or without malicious damage and unruly behaviour towards others. The object is to ascertain whether a new approach focused on the physical environment will provide something other than the usual explanations. It will consist of a literature study to indicate whether, and if so in what way, empirical research might confirm any correlations that might be inferred.

3.4 Rape: facts and perspectives

Researcher:
E. Leuw

Facts: An investigation of developments in criminal law response to sexual assault and rape. Both quantitative and qualitative information: relative frequencies of notification, detection, summonsing, sentencing, characteristics of offenders and victims, relative severity of sentences, semantic interpretations followed by various parties in deciding questions of 'gravity' and 'guilt'.
Perspectives: Definitions and explanations of sexual assault and rape from the point of view of sociology, criminology, psychology/psychiatry, socio-biology, anthropology, and (radical) feminism.

3.5 Criminality of the corporation

Researcher:
C. H. Brants-Langeraar

Since 1976, Dutch criminal law has recognised the general punishability of legal persons and several types of corporation under section 51 (revised) of the Criminal Code. In view of the individual and culpability-oriented

character of common penal law, however, numerous theoretical and practical problems arise specifically in relation to the corporation, particularly in connection with concepts such as agency, guilt and premeditation. Moreover, since it is nearly always a matter of 'instrumental' criminality, the effectiveness of criminal law sanctions is called in question, while the social-economic position of the corporation makes it difficult to impose sentences which the latter would really be made to feel.
The object of the investigation is to collect empirical data and to devise a theoretical framework to handle the criminality of corporations and their prosecution and penalisation. An endeavour is made to gain more understanding of the link between the criminally liable corporation as a legal phenomenon and macro and organisational sociological factors.
The investigation is being carried out with the aid of a grant from the Netherlands Organisation for the Advancement of Pure Research.

3.6 **Discharge of police duties in an Amsterdam district**

Researcher:
D. J. Wijmer

In this project an attempt is made to form as detailed a picture as possible of a district of Amsterdam with all its specific problems as perceived by the inhabitants and municipal services. An endeavour is then made to ascertain whether, and if so to what extent, the police, as the agency formally responsible for exercising control and providing assistance, are developing a model of approach which is more or less geared to the particular situation in that district.

Free University of Amsterdam
Criminological Institute

3.7 **Provocation and escalation**

Researcher:
J. Dalstra

Formulation of the problem: How is police violence in response to social protest actions legitimised?
Object: To gather data on the circumstances in which

groups of police officers perceive and integrate group violence as provocative and legitimise their own violent conduct as non-provocative.
Commencement: July 1976.
Phases: 1976-'77, planning and a pilot study; 1977-1978. data collection and analysis of final investigation. The project was concluded at the end of December 1979.
A report is being prepared in the form of a doctoral dissertation.

3.8 Procedural models

Researcher:
W. J. M. de Haan

Supervision:
Prof. Dr. H. Bianchi
Prof. Dr. G. Snel

Formulation of the problem: What other procedural models are conceivable and feasible as replacements for present criminal procedures?
Commencement: August 1976.
Phases: 1976-'77, formulation of theory; 1977-'78, practice and testing; 1978-'80, final investigation and report.
Completion: 1980 (doctoral dissertation).

3.9 Early intervention in Amsterdam

Researchers:
R. L. Bergsma
H. Yzerman

Design: The project consists of two stages. The first stage is an analysis of data obtained from questionnaires completed by probation officers after each visit to a client. The original intention for the second stage was to analyse a number of unstructured interviews with clients, but this was later extended to include the following:

- an analysis of new questionnaire forms more closely geared to the probation officer's specific duties than those used in the first stage;
- an analysis of unstructured interviews with probation officers.

Report: Owing to the slow progress being made, the report is not now expected until the end of 1980.

3.10 The legal status of psychiatric patients

Researchers:
A. Frid
P. Ippel

This study forms part of a series of projects mounted by the research department of the Amsterdam Crisis Centre.
Dual *objects:*
- a broad survey of the legal problems experienced by patients, taking into account patients' own experience wherever possible;
- identification of ways in which problems raised by patients can be dealt with by the provision of legal aid in psychiatric institutions.

Completion: 1980 (in book form). (A. Frid, P. Ippel and P. Laurs: Jij liever dan ik. De psychiatrische patiënt: wat heeft hij te vertellen? The Hague, VUGA 1980).

3.11 Question and answer structures in communication between court and accused

Researcher:
P. L. Bal

Supervision:
Prof. Dr. G. Snel

Formulation of the problem: To what extent does the formal difference in the position of court and accused become evident in question and answer communication between them?
Object: To find better forms of communication.
Commencement: August 1980.
Phases: 1980-'81, formulation of theory and collection of data.
Publication: As a doctoral dissertation.
The research has been made possible through the award of a grant from the Free University's reserve research budget.

3.12 **History of the criminal law: long-term development 1850 - 1945**

Researcher:
S. van Ruller

Supervisor:
Prof. Dr. H. Bianchi

Object: To gain more knowledge of the historical background to the social control exercised by the criminal law.
Phases: Not yet finalised.
Report: Possibly in the form of a doctoral dissertation.

Free University of Amsterdam
Department of Criminal Law and Forensic Psychiatry

3.13 **Local authority criminal law**

Researcher:
H. K. ter Brake

Formulation of the problem: Does local authority criminal law, having regard to its nature, extent and quality, conflict with the fundamental principles of criminal law, the law relating to criminal procedure and the principles of legal security and equality before the law?
Object: To make proposals for the reform or unification of local authority criminal law in the light of the results obtained, such proposals being intended to contribute to the coming reorganisation of internal administration.
Publication: As a doctoral dissertation.

3.14 **Self-defence**

Researcher:
A. J. Machielse

A comparative law investigation of the dogmatics associated with the justification of self-defence: to be published as a doctoral dissertation.

3.15 Prisoners' complaints

Researcher:
U. van de Pol

Comments on the new arrangements for dealing with prisoners' complaints provided under the Prisons Act: to appear in various publications.

3.16 Publicity and the administration of (criminal) justice

Researcher:
U. van de Pol

An investigation into the application and effects of the principle that cases should be heard in open court. To be published as a doctoral dissertation.

3.17 Powers of enforcement available to the police in carrying out their investigative duties

Researcher:
J. Naeyé

Subject: A descriptive investigation of the powers of enforcement available to the police when investigating criminal matters.
Phases: 1980: identification and formulation of the problems; 1981: study of the relevant literature; 1981-1982: collection of research data; 1982-1983: completion in the form of a book and videotapes.

3.18 The legal status of the mentally handicapped

Researcher:
K. Blankman

Subject: The legal status of the mentally handicapped; to be completed as a doctoral dissertation.

State University of Groningen
Criminological Institute*

3.19 The legal position of minors in criminal law

Researchers:
J. Wever
Dr. M. F. Andriessen*

Subject: On the assumption that Dutch criminal law as it relates to minors is based on two underlying principles (legal system and system of upbringing), the extent to which this adversely affects the position of the minor before the law is examined.
Method and design: The legal position of minors at the various stages of criminal law (prosecution, trial and execution of the sentence) is mapped out on the basis of a literature study. The main difficulties in the legal position of minors are identified.
Conclusions: Dutch juvenile criminal law fails to satisfy the principle of objective administration of justice. The reasons for this are historical. When the government assumed responsibility for neglected and delinquent young people, such minors were regarded as objects of 'care and protection', not as 'possessors of legal rights and obligations'.
In recent years there has been considerable change in the attitude of society towards young persons. This ought also to be reflected in juvenile criminal law; minors should be recognised as having the legal rights of the subject. This should have an effect on the powers of the juvenile courts, the rules of criminal procedure and the position of minors within child care and protection bodies. The report has been completed and will appear shortly.

3.20 Young victims in North Groningen

Researchers:
S. Miedema*
G. J. A. Smale

Subject: A quality-of-life survey of young people carried out by the Provincial Youth Council included a set of

* Where more than one researcher is concerned, the person acting as spokesman is indicated, where applicable, by an asterisk.

questions relating to victimisation, feelings of fear and security, and opinions concerning the police. Questions on nuisance-causing and troublesome groups were also included. *Method and design:* A total of 678 young persons aged between 13 and 25 were interviewed in 27 municipalities in North Groningen. The questionnaire was mainly structured. The sample was random (sample fraction 0.036). The material was processed to take account of measures of association, bi- and multi-variate correlations, and regression analysis. *Conclusions:* The questions concerning victimisation related to the following categories of offence (in brackets, the number of victims): crimes of violence (21), crimes against property (137), vandalism (51), traffic offences (38). A total of 186 were victims on one or more occasions. As regards the four questions relating to safety, a quarter admitted some feeling of insecurity. As far as the three questions relating to police were concerned, some 13% appeared to entertain a fairly unfavourable opinion of the police. In the regression analysis comparisons, previous experience of victimisation appeared to play no part.

3.21 Clients' views on their rehabilitation

Researchers:
M. J. Winkels
Dr. J. A. Nijboer*

Subject: Identification of the problems of female clients of the Probation and After-Care Service, and examination of how the Service at present tackles such problems, and ways in which the Service could in principle expand or alter its approach to them. *Organisation of the research:* In consultation with social workers from two probation teams of the General Probation Association in Groningen, a number of female (ex)clients were approached for the purposes of the project. In all, 20 clients and ex-clients were interviewed. The qualitative method was used. The researchers conducted interviews with the clients on the basis of a list of topics; the conversations were recorded on tape and later transcribed. The material was processed using concepts and strategies proper to qualitative research models, including that of Glaser and Strauss (1967).
Conclusions:
The main conclusions concerning the provision of assistance are that:
- Material problems relating to money, housing, em-

ployment and education have a dominant place;
- Approximately a third of such material problems were solved with help from a probation officer. In approximately another third of the cases the problems persisted, despite efforts by the officer to solve them. About a third of the problems were not tackled by the officer;
- Mental tension connected with commission of the offence and its aftermath was alleviated through talking to probation officers;
- Mental problems connected with material concerns were scarcely diminished.

The main conclusions in relation to the assistance provided by the judicial authorities are that:
- All the women who had knowledge of the contents of the pre-trial report in relation to themselves were in agreement with what the probation officer had written;
- The women were generally indifferent to whether or not pre-trial reports were prepared and to possible objections to constantly referring to previous reports;
- The women came to the court sessions ill-prepared;
- The women's recollections of the court proceedings were most disagreeable.

3.22 Absconders

Researcher:
Dr. H. L. W. Angenent

Subject: The absconding of minors from the parental home is a phenomenon that has increased steadily in recent years. In any event more attention is devoted to it and we hear more about it. This is a fact-finding study of the phenomenon.
Method and design: The files compiled by the children's department of the Groningen police on sixty children who were reported as having run away from home in 1976 and 1977 were studied. Because of emigration, death, etc., 52 families proved to be suitable for interviewing. The father, the mother and the absconding child were interviewed. The questions concerned the family situation, upbringing, prejudices and, of course, the events and cicumstances connected with the child's decision to leave home.

3.23 The social background of juvenile delinquency; stage 3: social class and young people in the welfare state

Researcher:
L. A. M. Veendrick

Subject: An inquiry into the class situation of young people in the welfare state. 'Class situation' means the relationship between the individual and the class society in which he lives. This means that, on the one hand, we shall analyse the situation of young people in the light of the historical development of the welfare state. Factors to be included are the steadily increasing exclusion of young people from the production process, parallel with changes in compulsory education and training. This empirical analysis will be based on a study of the literature. At the same time, we hope through discussions with young people to obtain some understanding of their individual class position: how do they in fact reflect this and what are their feelings and opinions on it. We are concerned with such questions as the way in which individual development, the process of becoming an adult and social integration are determined by class attitudes; what are the effects of the capitalist production process, via individual skills and opportunities for education, on the position and awareness of young people?
Method and design: About 140 young people (aged 15 to 25) in Groningen were interviewed. This group may be divided into those at school (15 to 20 years), young workers, long-term unemployed young people and students (aged 18 to 25). The discussions were conducted with the aid of a list of the most important subjects, and all were taped. They will be processed and analysed according to qualitative methodological principles. The principal results will be introduced as themes in feedback talks: i.e. groups discussions with the same young people with whom individual discussions were held.

3.24 Unemployment and crime II

Researchers:
Dr. H. Timmerman*
Dr. R. W. Jongman

Subject: Changes in the living standards of people who have been unemployed for a lengthy period and how this affects behaviour.
Method and design: Some 35 people aged between 16 and 25 who have been out of work for longer than 6 months will be asked by means of in-depth interviews (the qualitative method) what effects unemployment has had on their housing, income, leisure activities, social life and self-image, and how they react to the changes.

3.25 Detecting and dealing with irregularities in income tax returns

Researchers:
J. Zondervan-de Jong
T. R. Drost*
Dr. R. W. Jongman

Subject: The nature and extent of the irregularities detected by the Income Tax Inspectorate during the tax year and the way in which they are detected and dealt with. In addition, an attempt is made to establish the characteristics of the 'perpetrators' and of those incomes and income entries that are liable to be connected with 'mistakes'. The project forms part of a study of the phenomenon of 'white collar crime'. It is intended as a first, fact-finding venture. In the final report, the characteristically administrative settlement of matters in this field will be compared with the criminal law settlement of other offences relating to property.
Method and design: Random samples were taken from the Inspectorate's files with a view to obtaining emperical data relating to the effects of detection, 'prosecution' and penalisation. In addition, the formal rules governing such aspects of control are described. The material will be processed using straightforward exploratory methods of analysis.

3.26 RBS 38: an experiment in non-judicial aid for young people in trouble with the police

Researchers:
Dr. M. F. Andriessen*
Dr. R. W. Jongman

Subject: Partly in response to the findings of a project entitled 'A look at the juvenile police', a practical experiment (RBS 38) was set up to ascertain how young people in trouble with the police can best be helped.
Method and design: An office was established for a two-year period im premises in the inner city, in and from which two social workers actively approach young people in the target group in order to give concrete assistance where necessary. Names were passed on by the police. The young people are free to respond or not to the RBS attempts at contact. One aspect of the assistance given is the provision of background reports on clients for the public prosecutor's office and the court. Full records of RBS 38 activities are kept so that detailed information will later be available on the number of young people contacted, their problems and the solutions sought. The final shape which this kind of assistance should assume is also examined.
Conclusions: The first six-monthly report (June 1977) clearly shows that the RBS workers are favourably received by young people because they do not act in a bureaucratic way; that the problems of young people are very great and that they have a pressing need for support: that young people perceive the police and the judiciary as a serious threat: and that the public prosecutor and the juvenile courts place a high value on the background reports provided from them by the RBS.
The second 6-monthly report (June 1987) clearly indicates that a growing number of clients come forward of their own accord and that the number of police referrals is declining; that the nub of clients' problems lies in their relationship with the parental home and their troubles with the law; that assistance is focused mainly on seeking specific improvements for the clients themselves (e.g. finding work, arranging accommodation, etc.), that one third of clients have a close-to very close relationship with the RBS; that cooperation between the RBS and law and order agencies is flourishing; that the RBS wishes, after the experimental period, to continue as an independent organisation subsidised by both the

local authority and the Ministry of Justice; that the RBS has created considerable goodwill amongst other aid agencies, but that these agencies themselves have little desire to change; and that combined work and training projects should be set up for young people in the target group.
Further evaluation studies will be made in 1981.

3.27 The records of young offenders

Researchers:
S. Miedema*
O. J. A. Janssen
H. van Loon

Subject: A typology of delinquency patterns amongst young offenders (aged 12 to 17) to be constructed with the aid of official records (police reports) between 1974 and 1978, the principal object being to analyse the processes involved (subsequent careers, etc.) and devise prevention programmes.
Method and design: Content analysis of police reports using a pre-structured code book; longitudinal descriptive design, development of theoretical model (primary as against secondary deviation). All young offenders who were the subject of police reports between 1974 and 1978.
The study is being conducted with the cooperation of the local police forces and of various secrions of the State Police Force in several communities in West Friesland (North Holland).

3.28 School children and crime: a preliminary study

Researchers:
Dr. J. A. Nijboer*
G. J. Ploeg

Subject: Processes that lead to the development of crime amongst school children. This preliminary study concentrates on the role and attitude of the teaching staff. It is also intended to solve a number of methodological problems.
Method: Five teachers were asked to complete a questionaire on 20 pupils. The teachers were so selected that the widest possible variation was obtained in the subjects taught. A certain regional distribution was

aimed at, plus a distribution according to type of school. The pupils were boys in the second or third grades of secondary school. The material was largely processed on a multivariate basis.
Conclusion: Teaching staff appear to be insufficiently well acquainted with their pupils' social background. Generally speaking, they are not inclined to make prima facie judgements. At any rate, they reveal a certain reserve about answering questions dealing with anything other than purely factual information. There appear to be some connections made between (perception of) pupils' performance, social class, classroom behaviour and certain personality traits. Such connections lie in the theoretically predictable direction. The results show, however, that such associations are very marked in the case of some teachers and almost totally absent in the case of others. This project certainly provides no evidence, therefore, that teachers have a general tendency to 'label' their pupils.

3.29 **School children and crime: an investigation of processes leading to the development of criminal tendencies in school children**

Reseachers:
Dr. J. A. Nijboer
Dr. F. P. H. Dijksterhuis

Subject: Testing of the hypothesis that processes are at work in schools which predispose certain pupils to become criminals. In addition, an endeavour will be made to describe such processes in more detail and to identify more closely the pupils who are most at risk.
Method and design: By studying the available literature an attempt has been made to chart the most important theoretical factors. In the project, such factors will be tested for their empirical validity in a longitudinal cohort study.
Eligible subjects being considered are: pupils in the same school year whose progress will be followed beyond the end of that year and teaching staff involved during the period in question; any other persons in or around an urban centre who might be regarded as being in a position to provide a picture typical of the Netherlands. A variety of methods will be employed to assemble the corpus of data, including: partly structured questionnaires, report statistics, reports by school advisory bodies, and data supplied by the police and

courts. In view of the nature of the project, the gathering of the data- and consequently its processing and reporting - will be accomplished in stages.

3.30 Living conditions and life styles of hard drug users - a typology

Researcher:
L. H. Erkelens
O. J. A. Janssen*
K. E. Swierstra

Subject: The survey consists of two parts: the testing of a hypothesis that for young people in receipt of unemployment benefit the use of hard drugs (heroin) can be a significant step. It will be ascertained to what social positions this assumption chiefly applies, what actor-perspective is associated with them, and how persistent behaviour of this kind influences living conditions and causes shifts in position and prospects. Finally the need for and experience of assistance will be investigated. The second part will focus on the functioning of a 'drug scene'.

Method and design:

Part 1:
Method: Earlier research and literature studies serve as a basis for establishing various possible links with, amongst other things, the above concepts of position and prospects'.
Technique: These links will be referred to in 'common sense language in the form of questions in frank discussions with the users of hard drugs. Despending on the response, modifications may be made in the course of the project. Processing will be on the basis of division into themes. A list of variables suitable for computer processing which will be completed by the researcher for each respondent has also been compiled.
Sampling: 70 respondents will be approached through drug aid agencies and Houses of Detention. Non-drug-taking offenders will be included as a contrast group.

Part 2:
Participant observation of a 'scene'.

3.31 **Local bye-laws (Algemene Politie Verordeningen - 'A.P.V.'s'): a study of the working of municipal penal sanctions, with particular reference to the environment**

Researcher:
J. Allersma

Subject: The usefulness of local bye-laws in present-day society is much disputed. Many assertions are bandied about on the subject which have no basis in reality. This investigation serves to establish a more solid basis for discussion. *Method and design:* The investigation is limited to the province of Drenthe and is particularly concerned with environmental questions. In the main, an approach from the points of view of the history and sociology of law.

3.32 **Unemployment and crime in the Thirties**

Researchers:
B. Henkes
Dr. R. W. Jongman

Subject: Generally speaking, it is assumed in the relevant literature that there is a link between unemployment and crime. In nearly every case it is a question of broad relationships (rise in unemployment - rise in crime). In the Sixties, however, a low rate of unemployment was accompanied by a rise in crime statistics. In this investigation, a more individual-oriented analysis is attempted. Is it the unemployed who are responsible for a relatively large proportion of crime? Were they the cause of the rise in crime during the Thirties? What sort of crime, if any, is related to unemployment? Is there a comparable shift in the amount of crime for which groups other than the unemployed are responsible? A comparative study covering the Sixties and Seventies is now also underway. *Methods and design:* For each calendar year from 1931 to 1939 samples in the ratio 1 to 5 were drawn from the police reports forming part of official records.

3.33 Unemployment and crime in the Sixties and Seventies

Researchers:
W. Hoejenbos
H. van den Berg
Dr. R. W. Jongman

Subject: Designed as a study by way of comparison with that for the Thirties (q.v.). It will now perhaps be possible to draw comparisons between the processes of depression, recession and expansion of the economy. In this investigation, a more individual-oriented analysis is attempted. Is it the unemployed who are responsible for a relatively large proportion of crime? Were they the cause of the rise in crime during the Thirties? What sort of crime, if any, is related to unemployment? Is there a comparable shift in the amount of crime for which groups other than the unemployed are responsible? *Method and design:* For each calendar year from 1960 to 1980 samples in the ratio 1 to 5 were drawn from the police reports forming part of official records.

3.34 Adjustment problems of girls released from homes

Researchers:
J. van der Meulen*
Dr. R. W. Jongman

Subject: Listing of the problems confronting girls who leave State homes to face society. *Methods and design:* On removal from State homes, a standardised 'exit interview' takes place, during which the girls say what they feel about the home, the way it is run, etc., and their hopes for the future. Follow-up interviews take place two, seven and twelve months later. In all, the progress of between 100 and 120 girls is being followed (population of those released from homes about 2 years ago). *Object* of the project: Improved guidance and help for girls on their release from homes and, while still institutionalised, more direct preperation for dealing with anticipated problems.

3.35 **Mala fide practices in the housing construction industry I**

Researchers:
G. J. Ploeg
Dr. H. Timmerman

Subject: Listing and description of the problems of people who employed the services of a contractor in building their home. What were the problems involved, and how frequently were they encountered? Was there any question of premeditation underlying such problems? Did any conflicts arise and, if so, how was it resolved? *Method and design:* Some 500 people who had their homes built in one of the three northerly provinces in 1978 were approached with a questionnaire. Their responses are being processed quantitatively. Some 150 persons who had experienced the greatest or most numerous problems were further interviewed, and the results will be processed qualitatively. In this part of the project, the other party will also be interviewed.

3.36 **Object and form of projects to aid the victims of crime**

Researchers:
G. J. A. Smale*
F. van der Gun
P. de Boer

Subject: Structuralisation of existing projects through differentiation of 'types' of objectives and forms of organisation. A uniform method of reporting on a nationwide basis is also being devised.

3.37 **The origin and operation of the aid-centre for victims of crime in Groningen**

Researchers:
G. J. A. Smale*
B. M. Beke
J. van Loon

Subject: Description of historical and social factors which contributed to the origin of aid projects; analysis of the organisation and mode of operation of the Groningen centre: the victims contacted, their requests for assistance and the assistance provided.

3.38 **The Groningen aid-centre for victims of crime**

Researchers:
G. J. A. Smale*
T. J. Kolk (Humanitas)
J. A. J. van Leeuwen
M. Voogd
L. J. Geerlings, et al.

Subject and aim: Evaluation of an attempt to provide assistance to victims with physical, financial, legal, mental and social problems and needs.
Method of work: Victims are referred to the Centre by the police and come on their own initiative. In more serious cases they are visited. The services of the Centre are also available to those not wishing to register. Assistance is provided by two permanent officers (trainees involved in higher vocational training specialising in the provision of social assistance) and a group of experienced volunteers. Only in cases of emergency are clients referred to established assistance authorities; such authorities are usually only called upon to give advice. One of the basic aims in providing assistance is, where possible, to bring about a meeting between victim and offender, voluntary compensation and a reconciliation.

3.39 **State University of Leiden**
Criminological Institute

Behaviour therapy in the treatment of offenders

Researcher:
Dr. A. R. Hauber

In order to obtain some understanding of the degree to which behaviour therapy is applied in the treatment of offenders (in this case, people with convictions for offences against the law or who seek specialist aid because of norm-violating behaviour), semi-structured interviews have been conducted with people professionally active in this field, namely members of the Vereniging voor Gedragstherapie ('Behaviour Therapy Association').
Analysis of the data is proceeding.

3.40 Crime involving cheques in the Netherlands

Supervisor:
I. G. Toornvliet

An investigation of the nature and extent of crime involving cheques in the Netherlands, the effect of cheque guarantee systems, the types of persons passing false cheques and the sanctions applied in cases of cheque frauds. The theorical basis is largely formed by Edwin M. Lemert's ideas on 'naive check forgery' and 'systematic check forgery'. Use is made of survey material and records on offences against sections 225, 326 and 326a of the Criminal Code.

3.41 Paedophilia

Researchers:
Dr. A. R. Hauber
M. Pieterse

By means of interviews and questionnaires, the researchers hope to obtain more understanding of the motivation and experience of paedophiliacs.

3.42 The use of pre-trial reports based on questionnaires in criminal proceedings against minors

Researcher:
H. M. Willemse

Description: Following a self-initiated experiment carried out by the Rotterdam Child Care and Protection Board, the Child Care and Protection Department of the Ministry of Justice requested that an investigation be carried out into the possible use of questionnaires for the purposes of briefing the judiciary.
The problem: To design a reliable and effective questionnaire which meets the requirements of those concerned with regard to the provision of accurate pre-trial information in criminal proceedings against young suspects. Essentially, the project involves the collection of data on young suspects which are then correlated with recidivism on the part of these same persons. An attempt will then be made to identify characteristics which could facilitate the prediction of recidivism. The

investigation is at present at the stage where the first data on recidivism are being gathered. *Method of analysis:* mainly regression analysis.
The investigation has been extended to include data on the research group of persons drawn from the Judicial Documentation registers. Date of completion: 1980.
Publications: 8 (internal) interim reports.

3.43 **The international aggression project**

Researchers:
Prof. Dr. W. Buikhuisen
in collaboration with:
Dr. Rubin (U.S.A.)
Dr. Mednick (Denmark)
Dr. Shoham (Israel)

Description: Neuropsychological part of the investigation. This project is being carried out in Israel; the U.S.A., Denmark, Israel and the Netherlands are participating. The project is to be regarded as a preliminary study. The subject under investigation is aggression. Three types of violent offender are distinguished: (1) A group of offenders who use violence as a means of achieving a specific, usually economic, goal. This group includes, for instance, persons who will use violence in return for payment (underworld crime); (2) A group of impulsively violent people. These are persons who often get involved in fights and who have frequently been convicted of inflicting bodily harm. Im common parlance, they are hot-tempered people who come to blows at the slightest provocation; (3) The third group consists of persons who always keep their aggression strictly in check, but who occasionally lose control, often with grave consequences.
The three groups will be compared to establish any differences between them and to ascertain in what respect they differ from, on the one hand, institutionalised and, on the other, non-institutionalised people who can be regarded as typically violent. The group of violent offenders consists of prisoners at present serving sentences for crimes of violence in Ramle Prison in Israel, a so-called 'maximum security prison' for common criminals. The investigation comprises sociological, psychological, endocrinological, psycho-physiological and neuropsychological parts. The State University of Leiden will be responsible for the neuropsychological part.

Further details on the subject are given in the paper: 'Informatie met betrekking tot een in Israel te verrichten voorstudie naar de achtergronden van bepaalde vormen van agressieve criminaliteit'. The guarantees given to the test subjects are also dealt with at length.

3.44 **Observation-based investigation of aggressive behaviour motivated by a desire for attention**

Researcher:
Dr. G. Roëll
in collaboration with
Dr. J. A. R. van Hooff, (Laboratory for Comparative Physiology, Utrecht)

Description: The questions underlying the investigation are: Why are some young people aggressive; why are some not accepted by their contemporaries; and why are some isolated? How do the social interactions of such persons originate, develop and terminate? How does their behaviour alter as they develop? An attempt will first be made to answer such questions through direct observation. Supplementary information will then be gathered by means of interviews and psychological tests. Date of completion: 1982.

3.45 **Psychological and psychophysiological research in relation to aggressive minors**

Researchers:
Prof. Dr. W. Buikhuisen
Dr. E. H. M. Bontekoe

Description: The available literature suggests a link between cognitive disorders and violent behaviour. There is reason to believe that such disorders also affect the parent-child relationship, the development of personality and, in particular, emotionality and performance at school. A comparative study will provide the means for ascertaining whether these suppositions are correct and whether a concealed base for violent behaviour is not to be looked for in such disorders.
Date of completion: 1982.

Catholic University of Nijmegen
Criminological Institute

3.46 **Crime as a social conflict**

Researchers:
L. G. H. Gunther Moor
R. W. J. V. van Hezewijk

Supervisor:
Prof. Dr. C. I. Dessaur

Comparative research into the interaction between the judicial system and persons committing offences against property on the one hand and between the tax authorities and offenders against the income tax laws on the other.The object of the investigation is to describe both interaction processes . In pursuance of a theory of A. Turk, an attempt is made to explain the development of such interactions in terms of ideas borrowed from conflict theory.
Expected publication: end of 1980.

3.47 **Deviant socialisation**

Researcher:
G. J. N. Bruinsma

The object of the investigation is to test a theoretical model such as that developed by K.D. Opp on the basis of E. H. Sutherland's differential association theory. An attempt will be made to explain the deviant learning process with the aid of a network of hypotheses.
The investigation consists of two parts. In a pilot study, 244 boys and girls aged 12 to 16 were interviewed and the results used to test the questionnaire. A full report on this study was produced by the Criminological Institute, in collaboration with Dr. M. A. Zwanenburg, in 1980. As part of the main project, which will include the actual testing of the model, the questionnaire was submitted to 1209 boys and girls aged 12 to 16. This doctoral dissertation is expected to appear at the end of 1981.

3.48 **Sentencing - past and present**

Researchers:
Dr. J. P. S. Fiselier
R. W. J. van Hezewijk

At present a study is being made of policy governing decisions not to prosecute, sentencing and the execution of sentences. An effort is being made to develop a model based on the premise that the total amount of punishment meted out in a society is constant. The model is being used to formulate hypotheses which would explain the changes that have taken place this century in the way criminals are treated.

3.49 **Mass media and crime**

Researcher:
L. G. H. Gunther Moor

In this doctoral thesis study, the effects of reports of crimes on the public and on judicial officers are discussed. A theory is presented on the prerequisites to be met by events if they are to be included in the mass media as news. In the empirical section, the theory is finally applied to the origins of crime reports. Expected publication date: 1981.

3.50 **Criminology in the cultural perspective**

Researcher:
Prof. Dr. C. I. Dessaur

In this project, cultural explanations are sought in the 'history of ideas' tradition for the development and existing state of criminology . The often concealed or unconsciously followed philosophical, anthropological and epistemological premises of recent criminology are analysed, and possible alternatives and basic assumptions discussed.

3.51 Methodologies in criminology

Researcher:
Dr. M. A. Zwanenburg

A discussion of the epistemological requirements that should be made of theory formulation in criminology. The importance of academic research for policy development is also analysed.

3.52 Victimological criminology

Researchers:
G. J. N. Bruinsma
Dr. J. P. S. Fiselier

In this investigation an attempt is made to analyse existing theories and methods of victimological criminology. Two important fields of victimological research, viz. the victim as a cause of criminal behaviour and the behaviour of victims in reporting the facts to the police receive special attention. The analysis shows that the development of theory lags far behind the great volume of empirical material. If viewed critically in the light of the rationalistic criteria governing scientific procedure, present explanations appear to be scarcely, if at all, adequate. The problems identified in victimology reveal a surprisingly large measure of agreement with those of earlier criminology.
The results of the investigation have been published in the Tijdschrift voor Criminologie, Vol. 21, No. 4, July/August 1979, pp. 180-191 under the title 'Victimologie of het empirisme ten voete uit', and in a paper entitled 'The Poverty of Victimology' presented to the Third International Symposium on Victimology, held at Münster, West-Germany, 2 - 8 September 1979.

3.53 Women and Crime I

Researchers:
G. J. N. Bruinsma
Prof. Dr. C. I. Dessaur
R. W. J. van Hezewijk

At the request of the United Nations, an investigation was carried out into the development of female

criminality in the Netherlands since 1952. In the investigation, use was made of existing statistical material and of several self-report studies. In the report, moreover, an endeavour was made to explain developments in female criminality and the link with the emancipation of women by means of a general theory of criminal behaviour. Various aspects of emancipation were studied in detail for the purpose. *Publications:* Female Criminality in The Netherlands, Nijmegen: Criminological Institute, 1979; and Female Criminality in The Netherlands, in F. Adler and G. Müller (eds.), The Incidence of Female Criminality in the Contemporary World, 1980 (forthcoming).

3.54 **Women and Crime II**

Researchers:
G. J. N. Bruinsma
R. W. J. van Hezewijk

As a sequel to Women and Crime I, a closer look is being taken at a number of alternative explanations for female criminality. The general theory adopted will be further elaborated with reference to developments in the role of women is society. Ideas concerning emancipation will also be defined more closely and, if possible, formulated in a way more amenable to proof. Publication expected in the series, 'Nijmeegse Cahiers voor Criminologie'; date unknown.

3.55 **Erasmus University, Rotterdam**
Criminal Law Department

Possible application of cost-benefit ideas to criminal law decision-making (literature study)

Researcher:
P. Wesemann

Description: An examination of the practical possibilities of using policy analysis techniques (including cost-benefit analysis) in decisions relating to prosecution and sentencing. The relevant literature study includes the following topics:

a theoretical design of a cost-benefit analysis of criminal law decisions;

b present knowledge of costs and benefits relating

to criminal proceedings;

c changes required in present practice if policy analysis is to be effectively applied.

Address: Erasmus University, P. O. Box 1738, 3000 DR Rotterdam, The Netherlands.

An endeavour is being made to publish the findings as a doctoral dissertation by 1981.

3.56 **Shop-lifting**

Researchers:
H. Moerland
J. G. Rodermond

Description: An investigation aimed at facilitating rational decisions on how to deal with shop-lifting. For the time being, work is centred on delimiting the problem and determining its nature and extent. The first part of the project has now been completed. This comprises an inventory and analysis of events that may be described as the behaviour of customers in a shop which the shopkeeper considers to be injurious and which in one way or another involves goods offered for sale in the shop.

A report containing the findings of this section and an outline of the researchers' views on the legal science aspects has already appeared.

The second part of the project relates to formal and informal reactions to situations of the above kind and to preventive measures. A report on this part will appear in December 1980.

Meantime, a third project has also been launched. This takes the form of a longitudinal survey study aimed at discovering any link between

- the expectations people have regarding the possible consequences of certain forms of injurious customer behaviour, and
- whether or not such behaviour is admitted by those persons (as measured by some or other 'self-report' means).

A report on this project will appear in 1983.

3.57 **Analysis of legal language**

Researcher:
R. V. de Mulder

Description: Exploratory study entailing a relatively precise description of certain characteristics of Dutch legal language (criminal law) and their comparison with other sub-systems of the Dutch language. A publication relating to the study will appear in the near future.

3.58 **Simulation study of criminal law systems**

Researcher:
R. V. de Mulder

Description: The effect of certain policy decisions in and relating to criminal law systems worked out by means of computer simulation.

3.59 **Problem of criminal definitions**

Researchers:
J. H. Olila
Prof. L. H. C. Hulsman
E. B. M. Rood-Pijpers

Description: What is meant by the term 'crime' and in what situations is it used and not used? The setting is a Dutch town.

3.60 **The police**

Researcher:
C. F. H. M. Hogenhuis

Description: Participant observation study conducted with the Rotterdam municipal police.

3.61 Crime, guilt and punishment

Researcher:
F. E. Frenkel

Description: Crime, guilt and punishment may be regarded as a paradigm in the sense of Kuhn's structure of scientific revolutions. In intra-systematic terms the set of concepts is altogether inconsistent, which is partly concealed by definitions in terms of mutual dependency. However, this set of concepts has become se generally accepted even outside the field of criminal law theory that it hinders much behavioural research in the broadest sense of the word. How and to what extent this occurs is the subject of this study.
In this connection mention may also be made of an interdisciplinary inter-faculty research project relating to organ donorship.

3.62 Claims and criteria

Researcher:
C. Gutter

Description: Claims that activities are undertaken with the primary object of increasing knowledge on any particular point pose a number of questions for the observer of such activities. One of these may be whether such claims can be justified by reference to certain criteria. Discussion on this question and an attempt to find the answer are possible only if at least some of those taking part specify the criteria to which, in their opinion, these attempts at justification may be referred. Criteria of this kind are specified in the study on the basis of an investigation already completed, and the question of whether the research activities concerned can be justified by reference to those criteria is discussed. Copies of 'Pretenties en criteria' are obtainable from: C. Gutter: E.U.R., Postbus 1738, Rotterdam.

3.63 **Aspects of violence and the machinery of government**

Researcher:
C. Gutter

Description: An examination of the possibility of adding to our knowledge of certain aspects of extralinguistic reality which come closer than the customary 'legal' contributions to meeting the requirements that may be made in the light of present epistemological insights of activities which are claimed to be directed towards increasing knowledge.

3.64 **Paradoxes**

Researcher:
F. A. J. Koopmans

Description: Based on the idea that there are several levels in communication and confusing them leads to paradoxes; people who are exposed to paradoxical orders over a lenghty period develop an attitude to the world characterised by a dualism of body and spirit. Both Eastern philosophy and cybernetics are based on an integrated image of man. The query is:
does criminal law also impose paradoxes?

3.65 **'Abolitionism' in psychiatry**

Researcher:

M. M. Kneepkens

Object: With the aid of an analysis of the situation in Italy, to ascertain to what extent closed psychiatric institutions in the Netherlands can be dispended with. The results will be published in a report challenging the findings of the Van Dijk Committee (Working Party on the Legal Position of Patients in Psychiatric Hospitals). The report is expected to appear in September 1980.

3.66 **'Abolitionism' in the Netherlands during the 1920's**

Researcher:
M. M. Kneepkens

Historical-analytical study of the abolitionist view of Clara Meyer-Wichman and her associates and their influence on the present 'abolitionist' current in criminal law.

Erasmus University, Rotterdam
Department of Criminology and Juvenile Law

3.67 **Methods of conducting a court case**

Researchers:
Prof. Dr. G. P. Hoefnagels
Dr. K. J. Nijkerk

An empirical investigation of attitudes and group-dynamic relations in legal situations. The project was begun in September 1976; it is expected to be completed in 1981, after which the findings will be published in book form. Hoefnagels is at present engaged in an empirical investigation of the objectives, expectations and outcome of the administration of criminal justice in less important cases, for which purpose a theory was posited on the relation between the conduct of criminal proceedings, sentencing and 'the dogmatics of criminal law'. Subsequently, observation techniques and interviews were used before and after a court case to ascertain the mutual interaction and role assumptions of the persons involved; analysis and prospects were elaborated. The theoretical part of the investigation was first presented as a paper to the Conference of the Netherlands Association for Criminology on 'Beslissingsmomenten in het strafrechtelijk systeem' (June 1978); the initial findings of the investigation were also discussed there. The first part of the investigation appeared in 1980 under the title 'Een Eenvoudige Strafzitting'. Een onderzoek naar de doelstellingen, verwachtingen en uitkomsten van de methode van strafrechtspraak in minder grote zaken'; Samsom, Alphen a/d Rijn, 1980.

3.68 **Divorce Law**

Researcher:
Prof. Dr. G. P. Hoefnagels

A study of the relationship between legal, psychological and social processes. '(niet) Trouwen en (niet) Scheiden' appeared in May 1976 as a preliminary publication and in a second revised impression in 1978. Particular attention is now being devoted to the possibility of 'matching' the legal and psychological implications of divorce in consultative discussions with persons in the course of divorce proceedings. An initial study of the divorce process was produced in October 1978 in the form of a preliminary report. 'Scheiden als proces, for the Vereniging voor Familie- en Jeugdrecht (Association for Family and Juvenile Law'). An investigation based on official records and interviews is now being carried out into divorce as legal proceedings in Surinam. It is expected that the empirical data will be gathered by the end of 1980 and that the report will appear in 1982.

3.69 **Comparative criminology**

Researchers:
Prof. Keith Devlin, Ph.D.
Prof. G. P. Hoefnagels

Comparative research into the penal process in the Netherlands and in England and Wales, with special reference to the role of the police. The study was carried out in collaboration with Brunel University (U.K.), and was concluded in 1979 with the publication of 'Justice before Trial. A comparative study of the prosecution process in England and Wales and The Netherlands'.

3.70 **Comparative study of family law in the Netherlands, England and Wales and the United States**

Researcher:
Prof. Dr. G. P. Hoefnagels

Research into English and Welsh, American and Dutch family law and related processes. The study is being conducted in collaboration with Brunel University,

(U.K.). A publication is expected in 1981, entitled'(no) Marriage and (no) Divorce'.

3.71 **Phenomenology of crime**

Researcher:
Prof. Dr. G. P. Hoefnagels

A study undertaken together with the Joint Faculty of Philosophy with the object of devising a fresh approach to the phenomenon of crime using the phenomenological method, within the wider framework of a 'Philosophy and science'cycle. The study appeared in the series 'Fenomenologische Cahiers', No. 1, Van Gorcum, Assen, 1979, and under the title 'Phenomenology of Crime' in the International Journal of Law and Psychiatry, vol. III, No. 4, Pergamon Press, Oxford, New York, 1980.

3.72 **Right of access**

Researcher:
M. L. Smoor

Supervisor:
Prof. Dr. G. P. Hoefnagels

Comparative research into relations between the child and parent who has not been granted custody after a divorce in a number of West European countries and the United States. Information is drawn from legislation,case law, literature and empirical research on the principles underlying the right of access, regulation and organisation of the relationship, actual functioning, and legal and psychological consequences. The object is to formulate proposals for legislation and policy concerning rules of access in the Netherlands.

3.73 **The semantics of football**

Researcher:
R. Siekmann

Supervisor:
Prof. Dr. G. P. Hoefnagels

An investigation into the meaning of football terminology relating inter alia to discipline and the rules of the game in the Slavonic, Germanic and English-speaking countries. The aim is to arrive at more uniform meanings in football terminology.

3.74 **Female criminality in Surinam**

Researcher:
J. Binda

Supervisors:
Prof. Dr. G. P. Hoefnagels
Prof. L. T. Waalwijk

An investigation based on records into the extent of female criminality dealt with by the courts between 1956 and 1978. The characteristics of female criminality are examined.

3.75 **Penal sanctions other than a custodial sentence in Surinam**

Researcher:
H. de Rijp

Supervisors:
Prof. Dr. G. P. Hoefnagels
Prof. L. T. Waalwijk

An examination of the nature and extent of custodial sentences in Surinam. An attempt is made to arrive at a more effective and just theory of punishment which could have practical significance for penal sanctions in developing countries.

3.76 **The home circumstances of children after divorce**

Researcher:
C. van Wamelen

Supervisor:
Prof. Dr. G. P. Hoefnagels

An examination of what children feel about living in single and two parent families, and about divorce, guardianship and rules of access. Also investigated are the experiences of children whose parents live apart. A literature report will appear in 1980. In September 1980, the field research will commence in ten primary schools. Its completion is expected in April 1981, after which the material will be processed and reported on. The conclusion of the project is expected in 1982.

Catholic University of Tilburg
Criminology Section of the Criminal Law Department

3.77 **Unlawful police action**

Researcher
H. F. C. Rombouts

Investigation carried out in the canton of Tilburg into the frequency and forms of irregular or unlawful police action against private individuals and into the results of complaints lodged concerning such action (1. effect on complainant; 2. internal individualising response; 3. effect on policy).

3.78 **Formulation of a theory on violent youth**

Researcher:
H. F. C. Rombouts

The subject 'violent youth' has long proved a welcome projection screen for the ivory tower mentality of academics: over against the natural science approach to the interpretation of human behaviour (an approach which has recently enjoyed a revival under the label 'biosocial criminology') it is possible to distinguish the romantic self-deception which regards destructive behaviour as subversive. These two extremes of error are

set out and interpreted as moments of political prejudice - political in the broad sense of the word.
Publication: 1981.

State University of Utrecht
Willem Pompe Institute for Criminal Law

Criminology Section

3.79 **The operation of the documentation register**

Researcher:
Prof. W. M. E. Noach

3.80 **Borderline cases**

Researcher:
Prof. W. M. E. Noach

This investigation centres on the 'no claim bonus' as a potential source of crime in respect of section 30 of the Road Traffic Act.

3.81 **Political implications of criminological theories**

Researcher:
P. Moedikdo Moeliono

Doctoral dissertation.

3.82 **The development of protest movements in Italy**

Researcher:
Prof. Dr. H. Hess

This investigation forms part of comparative investigation by four European countries (The Netherlands, Italy, France and West Germany) into the social conditions of terrorism.
Description: Reflects the development of protest movements since 1945, particular attention being paid to youth and student movements in Italy. Special attention is also devoted to the various ways in which efforts are being made to solve problems such as political terrorism and to the social-structural grounds for such developments. Completion: September 1980.

3.83 **Political terrorism**

Researchers:
Prof. Dr. Hess
Dr. L. M. Moerings

This comparative investigation into the social structural conditions governing the occurrence or non-occurrence of political terrorism forms part of a comparative investigation by four European countries (The Netherlands, Italy, France and West Germany) into the social conditions of terrorism. *Description:* A comparison of the four studies conducted as part of the overall project aimed at identifying the social structural factors which are specific to the occurrence of political terrorism. Completion: end 1980.

3.84 **Social conditions for protest movements in the Netherlands**

Researcher:

Dr. L. M. Moerings

This piece of research forms part of a comparative investigation by four European countries (The Netherlands, Italy, France and West Germany) into the social conditions surrounding terrorism. This section centres on the situation in the Netherlands. Completion: end 1980.

3.85 **Towards a general theory of crime**

Researcher:
Prof. Dr. H. Hess

The elaboration of a general theory of crime aimed at integrating various new terms within criminology. In addition to serving a purely academic purpose, the study will also be significant for shaping the author's own teaching material relating to criminology.

3.86 **Arson**

Researcher:
R. L. P. Berghmans (National Institute for Fire Prevention)

Investigation into the background of arson. The project commenced in 1979.

Juvenile law section

3.87 **The interest of the child**

Researcher:
Prof. M. Rood-de Boer

Study of legislation and case law aimed at examining the occurrence and operation of the criterium 'the interest of the child'.

3.88 **The law relating to assistance**

Researcher:
J. A. C. Bartels

An investigation of the legal position of clients receiving assistance and the legal aspects of the aid relationship. To be completed as a doctoral dissertation.

3.89 **Seventy-five years of juvenile law**

Researcher:
J. A. C. Bartels

Contribution to a commemorative volume; a study in the history of law.

3.90 **Orphans and their care**

Researcher:
J. A. C. Bartels

Practice-oriented investigation of the legal position of orphans and the needs and care of minors who lose

parental care and protection. The study is being made in collaboration with the Institute for Pedagogic and Adult Education Sciences and the Netherlands Family Council.

3.91 **Voluntary care and protection of children and young persons**

Researcher:
J. A. C. Bartels

Investigation of the significance, task and function of voluntary youth care organisations in juvenile criminal law.

3.92 **Minors as independent persons in law and in legal proceedings**

Researcher:
E. Ruppert

Literature on the legal status of minors still often lacks a theoretical juridical base. The terms 'legal status' is certainly used frequently, but for one reason or another it is more commonly associated with the realisation of that aim in practice than with a juridical base: the aspects of the problem connected with legal proceedings are often neglected as well. Object: To create a theoretical, substantial and procedural status for minors. To be completed as a doctoral dissertation.

Criminal law section

3.93 Completed research:
N. Jörg

Recht voor militairen (Doct. dissertation, State University of Utrecht, 1979):Samsom, Alphen a/d Rijn,1979.

3.94 **Pre-trial custody in England and Wales and the United States**

Researcher:
Dr. P. J. Baauw

A study in comparative law. The section dealing with England and Wales has already been published as a periodical article.

3.95 **The defence in criminal proceedings**

Researcher:
Dr. P. J. Baauw

Investigation of the status and activities of legal counsel for the defence in criminal proceedings; partly aimed at satisfying the needs of education (final examinations, duty solicitor courses, post-graduate training courses), partly at giving advice to practising lawyers and partly at assisting (ad hoc) publication of specialist literature.

3.96 **(Lost) institutions of Pre-Napoleonic Dutch criminal procedure**

Researcher:
Dr. P. J. Blaauw

A study in the history of law, probably to appear as a periodical article; also a preliminary study with a view to a possible publication in book form on the law relating to criminal procedure.

3.97 **The defence in political trials**

Researcher:
P. H. Bakker Schut

Case study of criminal proceedings against the West German 'Red Army Faction' at Stuttgart-Stammheim. To be completed as a doctoral dissertation.

3.98 **Economic crime**

Researcher:
Dr. T. J. B. Buiting

Study of the tension between the law relating to economic planning and traditional criminal law, for use in a social economic law course. To appear in book form end 1980/beginning 1981.

3.99 **Environmental crime**

Researcher:
Dr. T. J. B. Buiting

Initial survey of the field of penal provisions relating to pollution of the environment and their practical effects.

3.100 **Reasonableness and the criminal law; the significance of the 'Défense Sociale Nouvelle'**

Researcher:
J. A. Janse de Jonge

A historical analysis of the fundamental ideas of the 'Défense Sociale Nouvelle' and its influence on the philosophy of criminal law. To be completed as a doctoral dissertation.

3.101 **Diachronic comparison of selected Dutch criminal trials**

Researcher:
J. A. Janse de Jonge

Record-based study with commentary.

3.102 **The significance of Foucault for modern criminal law**

Researcher:
J. A. Janse de Jonge

Literature study.

3.103 **Legal assistance and juridical activism**

Researcher:
E. Jessurun d'Oliveira-Prakken

An investigation of the nature and effect of legal assistance, particularly activistic legal assistance; an empirical study dealing with theoretical, sociological and comparative aspects of law.

3.104 **Legal advice in penal institutions**

Researchers:
E. d'Oliveira-Prakken
Dr. C. Kelk

Empirical investigation into the aims and actual functioning of juridical hours of consultation in penal institutions, within the framework of the 'Equality of Arms' Working Party. Completed. To be published in 1980.

3.105 **Legal status of prisoners in the context of health care**

Researcher:
Dr. C. Kelk

This investigation has already resulted in one publication, but will give rise to at least one other.

3.106 **The revision and implementation of the Report on the Legal Status of Prisoners**

Researcher:
Dr. C. Kelk

Revision, implementation and, application to the work of practising lawyers of the report 'Rechtspositie Gedetineerden', Ars Aequi Libri 1976; aimed at increasing awareness of recent legislation on the subject. The project enjoys the cooperation of *U. van de Pol* of the *Free University of Amsterdam.*

3.107 **Conspiracy**

Researcher:
G. P. M. Mols

Investigation of the place and function of conspiracy as a criminal offence. To be completed as a doctoral dissertation.

3.108 **The administration of criminal justice in Cuba**

Researcher:
A. G. van der Plas

A comparative law study of the development of criminal law in Cuba since 1959. To be completed as a doctoral dissertation.

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