

# Justitiële verkenningen

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## Self steering in criminal law policy

### Summaries

Justitiële verkenningen (Judicial explorations) is published nine times a year by the Research and Documentation Centre of the Dutch Ministry of Justice in cooperation with the publishing house Gouda Quint BV. Each issue focuses on a central theme related to criminal law, criminal policy and criminology. The section Summaries contains abstracts of the most relevant international articles of each issue. The central theme is: Self steering in criminal law policy.

#### **Choices in criminal law enforcement**

A.C. Berghuis, A.W.H. Docters van Leeuwen and R. Teijl

Scarcity in resources forces the public prosecutor to make hard choices in criminal law enforcement. Optimal law enforcement requires a large degree of decentralised decision making. This can only be reconciled with the accountability for the criminal law policy in general by accentuating a common value approach and by stressing the need for explicit answering for the choices made. The relevant values can be found in the criminal law itself - enforcement cannot be purely instrumental to uphold other (economic) interests. These values are positioned on two dimensions: the degree to which the (democratic) society is threatened (from public disorder to treason) and the degree to which personal rights are violated (from criminal insult to murder). These valuations should not be used in a purely econometric way, but as important qualitative benchmarks in decision making by the public prosecutor.

#### **The public prosecutor's office and postmodern policy making**

P. 't Hart, U. Rosenthal and L.A.J.M. de Wit

Under the new Police Law of 1993, effective crimefighting and order maintenance in The Netherlands can only be achieved when local authorities, public prosecutors and the police coordinate and cooperate intensively. Each has distinct legal competencies, expertise or other resources that the other parties need to achieve their aims. Especially the public prosecutor's office has been slow to adjust to the reality of interdependence and the attendant need to take an active part in interorganizational policymaking and local political processes. The article outlines five key strategic organizational challenges that await the public prosecutor in the policy arena, and describes how they are currently coping with them. It concludes that the public prosecutors are gradually becoming aware that this is part of their agency's core tasks, and that major initiatives are needed to further enhance its ability to cooperate in interorganizational networks.

#### **Selfregulation in a dual criminal justice system**

F.C.J. van der Doelen and A. Klink

In the near future, the growing decentralisation and internationalisation of the criminal justice system might lead to a scenario where a dual system of punitive law enforcement will develop in the Netherlands. On the one hand a interrelated chain of regional organisations tends to grow dealing with the streetrelated criminality; a chain of organisations which will be dominated by the policy of local authorities. On the other hand a typically national network of organisations tends to grow dealing with the law enforcement concerning (internationally) organised crime, which will be dominated by central government. This dual system of law enforcement gives rise to steeringproblems, which cannot be solved by the voluntaristic, postmodern steeringconcept of law enforcement by means of a chain of radically decentralised, selfregulating organisations. The role of the central state will not only be strong in the national chain, but also be very important for the functioning of the local chain. The mutual interdependencies between the regional organisations will lead to the growing need of chain-wide,

regionally based logistical information management, which also can be linked with (inter)national information and communication structures.

### **Criminal policy, criminal justice system and self-regulation**

G.J.N. Bruinsma, M. Bongers, W.P.E. van der Leest

The Parliamentary Committee Van Traa, tasked with examining investigative methods, clearly showed that public officers within several enforcement organisations had circumvented legal procedures. As a result of this, their actions were not subject to administrative control. The parliamentary hearings led to different attempts being made by various organisations to establish guidelines for proper legal procedure. These procedures, however, are not spelled out in an explicit criminal policy. In essence, criminal policy is created and carried out by officers on the street. Central criminal policy has to deal with, on the one hand, effective and efficient control of the links of the chain, and on the other hand, the stimulation of self-regulating mechanisms (schools, neighbourhood groups, etc.). Both types of criminal policy require new forms of government control. The government must find new ways to enforce the law and leave more to self-regulating mechanisms.

### **The local dimension in crimefighting**

C.J.E. In 't Veld and W.Ph. Stol

This article discusses police practices in solving crime. The main question is whether these differ locally. Research was carried out in two inner cities and two less urban areas. A multimethodological approach included: archival analysis of 2358 complete crime dossiers, a total of three months of observation of everyday police work, and formal and informal interviews. The main result is that police practices do differ locally. Most crimes in urban areas are solved by arresting the suspect in the act. The pattern is: one suspect, one crime solved. In rural areas most crimes are solved by questioning suspects on earlier reported crimes. The pattern here is: more crimes are solved per suspect ('case-enrichment'). The study demonstrates this since the previous experience of officers in rural areas gives them a knowledge of the possible suspects. When one of these is arrested, the officers know what other crimes he might have been involved in. The inner city is a far too complex environment to keep such an overview. Officers can overcome this lack of ready knowledge by organizing their work in crime-orientated projects. During a project they gather the knowledge they need to be successful in case-enrichment.

### **Priorities in maintaining environmental laws**

P.C. Cup

In The Netherlands, the practical enforcement of environmental laws regarding polluting factories is in the hands of the local communities, towns and County Councils (over 300) and about seventeen local public prosecutors. General policy, however, is laid down by the Ministry of environmental law (Inspectorate Environmental law) and the Ministry of Justice (Attorney-General for enforcement environmental laws). If one looks at organisations in the traditional way (in which the 'top' is steering the wheel) one would expect the ministries and the local communities to be on top leading the enforcement process and the officials working with and according to general directives. Local communities, public prosecutors, local inspectorates for environmental law and others work closely together. In this article it is described if and how central priorities for the enforcement of environmental law are established and who is 'the boss' in case of factories trespassing the law. In setting out policy as well as in solving a case of trespassing, it turns out that not the 'top' is managing the process of enforcement but that this is mostly done by officials of the local communities and local public prosecutors. The top 'only' has a special stimulating and general directing role and it is the officials that translate the set out policy into more concrete objectives, make priorities and take decisions whether a factory should be prosecuted or not. This system is working well but should be made more explicit in order to clarify every-one's role and making the working process easier.