



Standing Committee P

CACOLE Conference

16-18 June 2008





Need for surveillance and monitoring (1/2)

- In Belgium, the police:
 - is viewed with suspicion (as in all societies and certainly in those based on the rule of law);
 - is responsible for public law enforcement and holds a monopoly on the legitimate use of force;
 - is and remains an implementing body under the power of the police authorities and accountable to them;



Need for surveillance and monitoring (2/2)

- has its basic structure set out by the Committee P Act (July 18th, 1991), the Police Functioning Act (August 5th, 1992) and the Act creating an integrated police service, structured on a local and on a federal level (December 7th, 1998): **need for surveillance and monitoring**



Origins of Committee P (1/3)

Organised crime and terrorism: on 24 May 1988, a parliamentary committee of inquiry was set up to examine the Walloon Brabant killings. Its conclusions were, in substance, as follows:

“An external body should be set up with responsibility for monitoring all officials with police powers. [Internal] monitoring has proved inadequate. This monitoring body should not have a disciplinary function but should play a supervisory role. In other words, it would be responsible for monitoring the way in which police missions are executed and should report regularly to the Government and to Parliament.”



Origins of Committee P_(2/3)

The parliamentary committee of inquiry observed:

- *widespread mistrust between investigators and between the police and magistracy - these bodies generally did not cooperate willingly;*
- *rivalry between police forces, due to differences in status, recruitment practices, training and fields of work;*
- *the undemocratic nature of certain police methods;*
- *major problems with inquiry management;*
- *overlapping powers between different police forces.*



Origins of Committee P_(3/3)

Building on this report, the Belgian government announced the so-called *Pentecost Plan* in June 1990.

One of the plan's key points was the *proposal to establish a system for monitoring the police.*



Extension of power for the Committee P

- Extension of powers 1998
 - The Chairman of Committee P sits on the Security Clearance Appeal Board (*organe de recours en matière d'habilitations de sécurité/ Beroepsorgaan inzake veiligheidsmachtigingen*)
- Extension of powers 2004-2005
 - Surveillance of security services and officers working for state-run public transport companies(SNCB/NMBS, STIB/MIVB, TEC, De Lijn)
 - Security clearance: appeal board
- Extension of powers 2006
 - Joint supervision of Coordinating Body for Threat Analysis (OCAM/OCAD) with Committee I/R



Legal basis of Committee P ^(1/2)

The (July 18th) 1991 Act on monitoring police forces and intelligence services and the Coordinating Body for Threat Analysis



Legal basis of Committee P^(2/2)

Point of departure (Article 1):

“There shall be created, on the one hand, a Standing Committee for Monitoring Police Forces and, on the other hand, a Standing Committee for Monitoring the Intelligence and Security Services. The monitoring activity shall cover in particular:

- 1. the **protection of the rights** conferred upon the individual by the **Constitution** and by **law** as well as the **coordination** and **efficiency** of **police forces** on the one hand and intelligence and security services on the other;*
- 2. the **protection of the rights** conferred upon the individual by the **Constitution** and by **law** as well as the **coordination** and **efficiency** of the **Coordinating Body for Threat Analysis**;*
- 3. the **manner** in which other **supporting services** fulfil the obligation defined in Articles 6 and 14 of the **(July 10th) 2006 Act on threat analysis**.”*



Institutional framework (1/3)

- **The executive** must monitor citizens' security:
 - Home Affairs Minister + governor + mayor
 - Justice Minister
- **The judiciary** is there to investigate (public prosecutor's office and examining judge) and pronounce judgement on offences. It mainly uses the police to do this.



Institutional framework^(2/3)

- **The legislature** in Belgium has created various bodies enabling it to monitor the executive:
- Standing Committee P
 - Standing Committee I/R
 - Commission for the Protection of Privacy (Privacy Commission)
 - Federal Ombudsman
 - Court of Audit



Institutional framework^(3/3)

- Different parties “monitor” the actions of the executive (and by extension those of the police), including:
 - Citizens
(cf. new policing models such as community-oriented policing and policing aimed at finding solutions, with evaluation by citizens)
 - The media
 - The bar
 - Human rights organisations (e.g. Human Rights League, MRAX/BRAX)



MONITORING BODIES– General points

(1/2)

- Federal parliament (right to question the minister)
- Police councils and municipal councils (right to question the mayor)
- Budget monitoring: Budget Minister – Court of Audit
- Police authorities: Home Affairs Minister, Justice Minister, mayor and police board
- Judicial monitoring by the judicial police authorities: state and local prosecutor, examining judge



MONITORING BODIES – General points_(2/2)

- Judicial monitoring by courts and tribunals (e.g. examining magistrates, indictment chamber, criminal court, court of appeal, court of assize) for procedures and evidence in criminal matters
- Individual police officers (training – academies)
- Internal monitoring, monitoring by senior officers and informal social monitoring by colleagues
- Disciplinary monitoring (13 May 13th 1999 Discipline Act)



MONITORING BODIES – In detail

- **Standing Police Monitoring Committee (Committee P)**
- General Inspectorate of the Federal and Local Police.
- Local public prosecutor or federal prosecutor for all judicial police officers.
- The federal police has its own internal monitoring service (Federal Police/DGP/DPMD).
- The 196 (local) police services also have their own internal monitoring services or at least some internal monitoring system.



Standing Police Monitoring Committee

Institution accountable only to the
Legislature (federal parliament)

EXTERNAL MONITORING BODY



the Belgian Committee P



Committee P's watchdog role

Legal responsibilities:

- Protection of fundamental rights.
- Coordination of police forces and the coordinating body for threat analysis (OCAM/OCAD);
- Monitoring the efficiency/effectiveness of police forces and OCAM/OCAD.
- Ensure support services meet the responsibilities set out in the OCAM/OCAD Act.



Committee P's watchdog role

Committee P does not exist primarily to investigate or discover individual faults or failings by police or OCAM/OCAD officers.

Committee P's first task is to highlight/discover flaws in the police or OCAM/OCAD organisation/system and making (strategic or legislative) suggestions and recommendations.

Committee P is not a mediating body, nor does it have the power or responsibility of a disciplinary body. However, anyone who has been affected by a police force's actions may lodge a complaint or report of misconduct to the Committee P.



Committee P's strategic vision ^(1/3)

I. Mission:

Committee P aims to contribute to the effective functioning of a **democratic, honest and community-oriented** police service.

The Committee P is an **external body accountable to the Federal Parliament**.

It seeks to achieve this goal by monitoring the **overall functioning of the police** and the way in which all officials with police powers **perform their policing activities**.

The Committee P focuses particularly on the way in which efficiency, effectiveness and coordination are achieved, and the way in which **fundamental rights and freedoms** are respected.



Committee P's strategic vision (2/3)

II. Vision:

In its capacity as a **police watchdog**, the Committee P aims, on the basis of its inquiries and reviews, to:

- continually **update its overall picture** of the police and police activities (observatory role);
- **assess the functioning of the police** and issue recommendations;
- make **proposals** and issue **advice and recommendations** to the relevant authorities, either on its own initiative or upon request.

In addition, a **number of investigators** are assigned to conduct judicial inquiries **on behalf of the judicial authorities**, particularly in areas likely to bring information useful to the function of “police observatory”



Committee P's strategic vision (3/3)

III. Values:

The members of Committee P seek to fulfil the above tasks, in consultation with all staff members, by:

- focusing primarily on the **organisation and functioning of police forces**;
- favouring a **constructive and proactive approach to problem-solving**;
- acting in complete **independence** of the police and the police authorities;
- using an **objective and methodologically well-grounded system**;
- aiming to maintain a **high level of professionalism** at all times and in all places;
- striving for **excellence** as a learning organisation;
- working in a **positive atmosphere**;
- applying a **special collegial and pluralist decision-making process**.



Committee P – an institution accountable to parliament

STRUCTURE

Standing Committee P

5 members, of whom one is Chairman, with equal power and mandate

(currently 4 magistrates and 1 former police officer- Mandate until Feb. 2010)

Collegial and pluralist body

1 clerk (head of administration)

28 administrative staff members

Investigation department (5-year mandate)

1 chief
2 deputy chiefs

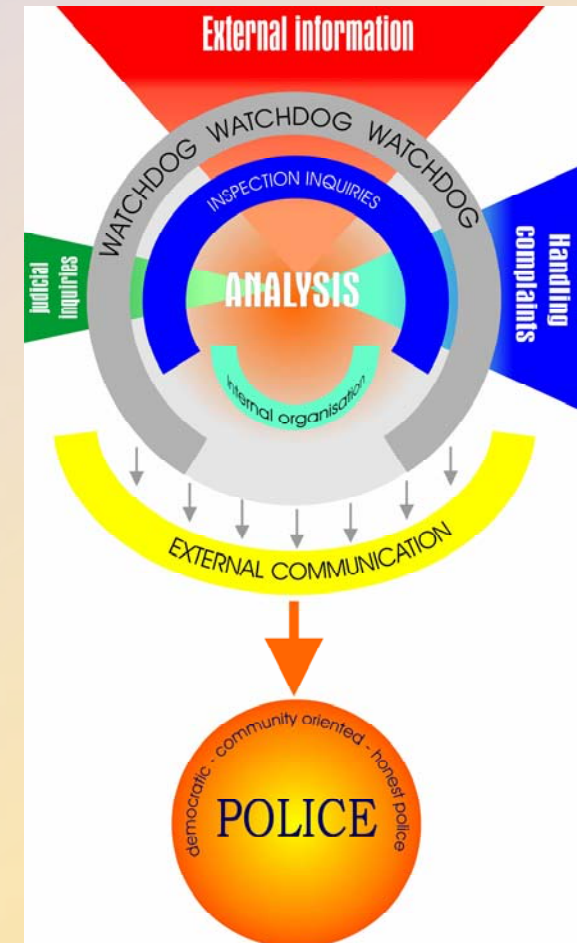
54 inspectors
 $\frac{1}{2}$ judicial - $\frac{1}{2}$ monitoring



Committee P's strategic objectives

- Police Observatory
- Handling complaints
- Judicial inquiries
- Internal operation

⇒ ***Four strategic areas of focus for Committee P.***





Committee P's watchdog role

- **Working method to achieve our goal of being THE Belgian police observatory:**
 - Data collection and recording
 - On-site investigation and analysis
 - Dissemination of conclusions
 - Opinions, advise and recommendations for the short, medium and long terms
 - Follow-up of the recommendations that were made



Monitoring who ? (1/2)

- All members of the operational framework and the administrative and logistical staff of 'traditional' police forces, e.g. the **local police forces (196)** and **federal police (1)**.
- Services of public bodies and authorities whose members carry the rank of **judicial police agent or officer** (e.g. economic inspectorate, customs office, environmental inspectorate, social inspectorate, ...).
- **Persons with the individual responsibility for detecting and reporting offences** (e.g. the issue of municipal employees in context of regulations on municipal administrative sanctions).



Monitoring who ? (2/2)

- Other internal monitoring bodies such as **internal monitoring services** and the **General Inspectorate**.
- Since 2006: the **Coordinating Body for Threat Analysis** (OCAM/OCAD), jointly with Committee I.

Monitoring **does not** cover judicial or administrative authorities (cf. inquiry relating to the Turkish activist Fehriye Erdal).



Committee P's methods (1/13)

- Information made available to the Committee P
- Complaints and reports of police misconduct
- Initiating an investigation spontaneously or on demand
- Global investigation or inquiries (non judicial)
- Judicial investigation
- Transfer of treatment (responsibility) and monitoring of other monitoring bodies
- Discipline
- Means of investigation

Frank Schuermans - Membre of
the Belgian Committee P





Committee P's methods (2/13)

- Information made available to the Committee P
 - Reactively and spontaneously
 - Complaints/reports of police misconduct lodged by individuals, officials and institutions
 - Information supplied by:
 - Police forces
 - » regulations, guidelines, complaints handled, disciplinary measures and corrective measures, general (annual) reports
 - General Inspectorate
 - » regulations, guidelines, complaints handled, general (annual) reports
 - Judicial authorities
 - » copies of judgements and rulings
 - » every time an inquiry is launched against a member of a police force
 - All members of the police and General Inspectorate
 - » whenever a police official is accused of committing a crime or offence



Committee P's methods (3/13)

- Information made available to Standing Committee P
 - Reactively and on request
 - Information on criminal proceedings against members of the police
 - Any other relevant documents (judicial decisions, information from police authorities, press, and so on)
 - Proactively
 - Site visits
 - Observation during police activities/Inspection/inquiries
 - Open sources



Committee's P methods (4/13)

- Complaints and reports of police misconduct
 - Any citizen
 - Any police official
(permission from superiors not required, no repercussions)
 - Guaranteed anonymity in some cases
 - Handling:
 - by the Committee P itself (with or without our ID)
 - after investigation by the relevant police corps/force.



Committee P's methods (5/13)

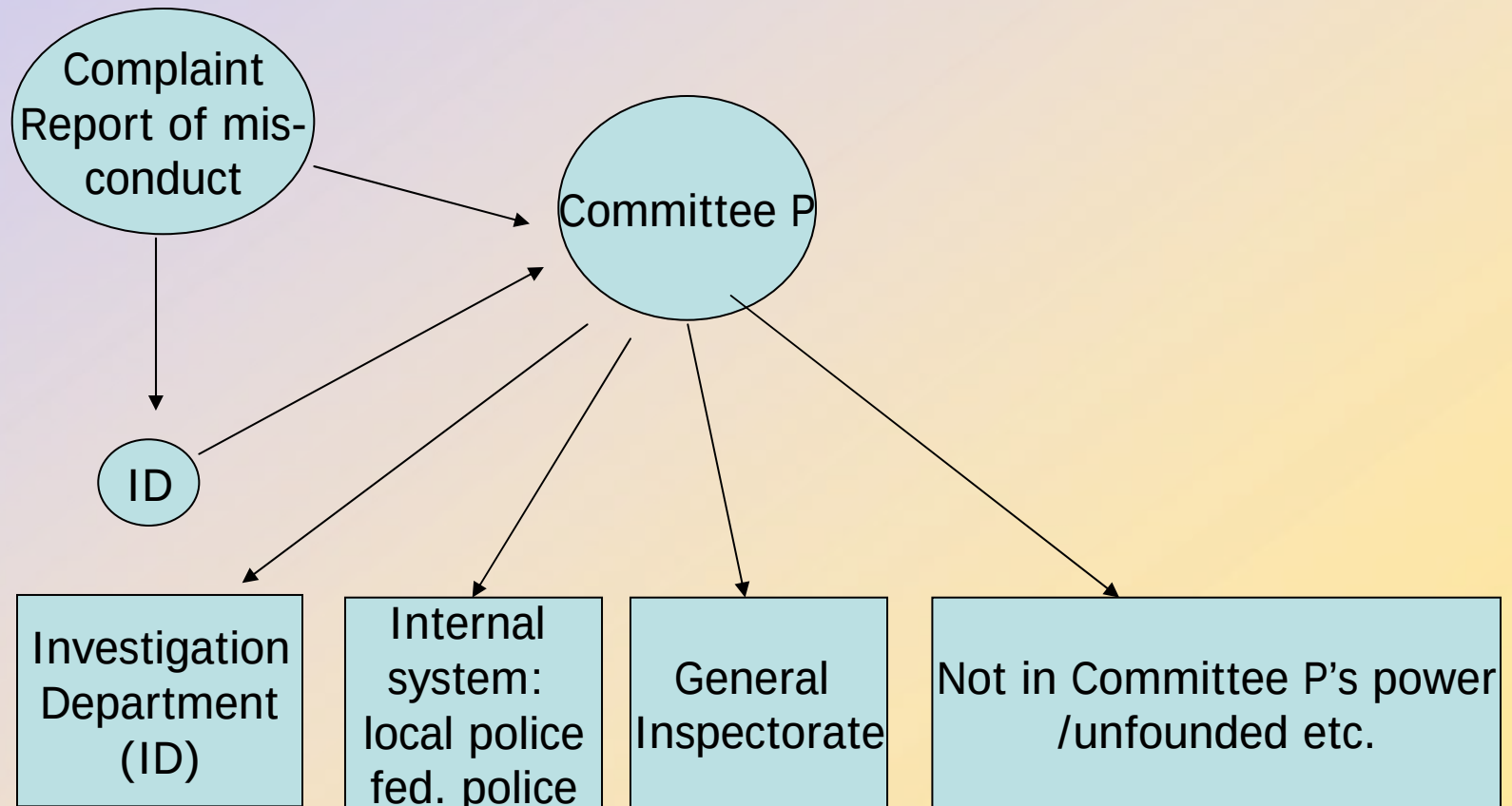
➤ Complaints and reports of police misconduct

- Not Committee P's main task.
- Committee P is unable to “help” the plaintiff from a legal point of view (disciplinary or punitive action is not part of its competence).
- Handling complaints is primarily the responsibility of the police force structure and the General Inspectorate.
- **BUT** the Committee P can conduct inquiries into the way a complaint was handled: monitoring the other monitoring bodies with the possibility of review (kind of appeal)!



Committee P's methods (6/13)

Complaints procedure - diagram



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Committee P's methods (7/13)

- Initiating an investigation of inquiry (non-judicial)
 - Committee P:
 - At its own initiative
 - At the request of the Chamber of Representatives or the Senate
 - At the request of a (police) authority
 - In response to a complaint
 - ID:
 - At the request of Standing Committee P
 - At its own initiative
 - At the request (not demand!) of the judicial authority



Committee P's methods (8/13)

- Global investigation or inquiries (non judicial):
 - In response to a specific incident.
 - Functioning of a the (part of) service or related to specific issue's (e.g. search and arrest, information management, administrative arrests, use of physical force).
 - Mostly performed by ID under the authority of the Committee P.
 - Guarantee that fundamental rights are protected and police forces are operating efficiently and effectively.
 - Require proactive action by Committee P but also reactive input: complaints, reports of police misconduct, guidelines, communications from magistrates, press articles, ...



Committee P's methods (9/13)

➤ Judicial inquiries:

- At the request of the judicial authorities (local/federal prosecutor or examining judge).
- Crimes and offences.
- Cannot jeopardise other tasks (monitoring).
- May not exceed half the total staff of our ID – arbitration by the president of the Committee P.
- No right of scrutiny for Committee P members.
- Information coming out of these investigations/inquiries provide important input to our global observatory aim.



Committee P's methods (10/13)

➤ Transfer of treatment:

- To the relevant (police) force/service.
- To the General Inspectorate.
- Once the case has been closed the Committee P must be informed of decisions and measures taken.
- Plaintiff must be informed in writing if responsibility is transferred to the police.
- Possibility of review (the police force must mention that possibility): rarely used



Committee P's methods (11/13)

➤ Transfer of treatment:

- Philosophy behind the complaints system is that the command chain is the first port of call.
- Gives the Committee P opportunity to observe and monitor how complaints are handled and plaintiffs are treated.
- monitoring of other monitoring bodies .



Committee P's methods (12/13)

➤ Discipline:

- The president of the Committee P has a binding right of injunction: in other words, we can ask the police force to investigate under the disciplinary Act.
- The disciplinary authority must inform the Committee P of the outcome of their investigation.
- Standing Committee P itself has NO disciplinary powers



Committee P's methods (13/13)

➤ Means of investigation:

- Anyone can be summoned for a hearing.
- Testimonies by members of the police
 - *Obligation to comply with any written summon*
 - *Permission to testify on matters covered by professional secrecy*
 - *Special procedure: summons by the president + obligation to testify under oath.*
 - *Obligation to reveal secrets with the exception of those relating to an ongoing inquiry or pre-trial investigation.*
 - *Permission to keep the secret if it would place an individual in physical danger -> decision lies with the president*
- Assistance by experts or interpreters.
- ID has police forces: investigation, access and seizure
- Police assistance may be sought
- Binding response times may be imposed



Committee P: complex organisation

Under the authority of the members of Standing Committee P: • investigation • monitoring • advise / recommendations	Under the authority of the magistrate: • judicial inquiries by ID (independently of Committee P –professional secrecy)
• on its own initiative • at the request of Parliament • at the request of the minister(s) • at the request of the judicial or administrative authorities	at the request of: • the local prosecutor • the federal prosecutor • the examining judge



Committee P's other activities

- Collaborating on studies and participating in information sessions (including international initiatives)
- Publishing articles/books
- Drawing up interim and final reports
- Issuing recommendations to Parliament, ministers, corps commanders, mayors, ...
- Handling complaints or monitoring how they are handled by the police corps
- Monitoring (the reform of) the police service
- Acting as a watchdog for regular or special police forces or inspectorates



2006 figures

- 1) Complaints filed to the Committee P: 2.314
 - 2) Complaints filed to the policeforce directly: 2.665
 - 3) Investigations communicated by the prosecution service: 1.173
 - 4) Number of sentences: 127
- ➡ **Total**: 6.152 allegations witch represents an average of over 1 complaint for every 8 police officers (approx. 47,000 operational and civilian staff members)
- ➡ **Proven**: approx. 12.3% of the complaints were found to be correct.

When the Committee P began in 1994, there were around 400 complaints ...



Committee P's basic values

- Constructive partnership with those we monitor whenever we can (“win-win situation”).
- Contributing to a high-performance police service (e.g. disseminating good practices).
- Adopting a constructive approach (monitoring inevitably causes inconvenience).
- Neutrality – objectivity – independence
- Becoming familiar with the organisation (i.e. structure, operation and culture, among others)
- Reference points:
 - Rule of law, regulations, principles for good administration, ...
 - Due diligence
 - Learning organisation (e.g. models for quality management)



Some sensitive issues(1/2)

- Task division between the monitoring and inspection bodies (GI and other bodies partially encroach on Standing Committee P's areas of responsibility – cf. May 15th, 2007 Act on the General Inspectorate enlarges problems relating to overlapping competence).
- The lack of agreement governing who does what undermines the credibility of monitoring; risk of contradictory conclusions being issued by different monitoring bodies.
- Influx of complaints to Committee P, even though it does not exist for this purpose. The police itself should be the first port of call for handling complaints: difficult message to pass to plaintiffs.



Some sensitive issues (2/2)

- Citizens' expectations overall very (too) high.
- Parliament's interest is sometimes very limited and sometimes excessive.
- Overlap between judicial inquiries and inquiries into complaints.
- Protection for police officers against “evil” complaints?
 - Counter-strategy
 - Harmful intent
- Aside from criminal proceedings no real means of enforcement (everything depends on the authorities);
- The Committee P has mostly a “moral authority”



“Don’t shoot the pianist” -

The ultimate responsibility lies with the
police authorities!



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