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CRIMINAL JUSTICE SYSTEMS

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## CRIMINAL JUSTICE SYSTEMS IN EUROPE

Report of the ad hoc Expert Group on a cross-national study  
on trends in crime and information sources on criminal  
justice and crime prevention in Europe

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## FOREWORD

During the second half of 1984, a group of experts from various European States met at the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations, to consider the responses to the Second United Nations Survey on Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (1975-1980), and to draw conclusions and recommendations regarding crime prevention and control in the European region.

The work of the group was designed both to provide a substantive contribution to the discussion on the subject, with special reference to the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Milan, Italy, 26 August - 6 September 1985), and to promote the international exchange of data on crime prevention and control.

The experts participating in the project were Professor Jerzy Jasinski, Professor Hans Jürgen Kerner, Professor Knut Sveri, Professor Katja Vodopivec and Mr. Patrik Törnudd. Mr. Matti Joutsen and Mr. Seppo Leppä assisted in the completion of the report, with the close cooperation of the United Nations Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs. The rapporteur for the group was Mr. Matti Joutsen, who also edited the final report.

The following report contains the results of the deliberations of the experts, as well as their conclusions and recommendations regarding both crime control policy and further development of data collection and analysis. In supporting the recommendation of the United Nations Committee on Crime Prevention and Control, adopted by the Economic and Social Council in its Resolution 1984/48, that the United Nations Secretariat should continue to carry out such surveys of crime trends, the experts also made several suggestions for the improvement of the survey. (Cf. the Report of the First Meeting of the ad hoc expert group, 27-31 August 1984, HEUNI.)

The use of criminal justice statistics in general, and their use in cross-national analysis in particular, has an extensive history. The oldest criminal justice statistics are the court statistics and statistics on penalties. Already in 1830, Mittermaier and Condolla grappled with the difficulty of international comparisons. In his *Physique sociale* (1835) Quetelet has drawn attention to the fact that criminality is not defined in the same way in all the countries and that only individual groups of punishable acts can be compared while crime as a whole cannot.

On the suggestion of Quetelet, and in order to verify his view of the "regularity and constancy of human acts" by means of international comparisons, statisticians tried to induce the states to classify criminal offences according

to an internationally standardized nomenclature. Such early efforts, for example those made by the International Statistical Institute in cooperation with the International Commission for Penal Law and Prisons at the beginning of this century, were largely unsuccessful in practice due to the overriding interest of individual states in focusing solely on violations against their own criminal law.

Since its inception the United Nations took an active interest in the promotion of the cross-national exchange of information on criminal justice systems. The United Nations Global Survey of Crime Trends covered the years 1936-1947. By 1959, a standard classification of offences had been developed for use in 77 states. In it all the definitions had been brought into agreement with national penal legislations. However, national legislation changes very rapidly, and the proposal soon became obsolete, underlining the need for continued work by the United Nations.

In 1950 INTERPOL began to publish international comparisons of recorded offences. INTERPOL draws attention to the necessity for caution in analyzing the data and to the fact that comparisons between states are not possible.

The Council of Europe has been engaged in the development of international comparisons from the 1960s onwards. Since 1983 the Council has published annual surveys of the prison populations in member states. These statistical surveys are useful because they cover a clearly delineated section of the criminal justice system. The circle of respondents, however, is limited to member states of the Council.

Another exemplary example of international cooperation is provided by the comparative statistical surveys undertaken by Scandinavian states. These are based on a thorough understanding of the system in the states in question.

A renewed initiative to introduce comparative international statistics was made at the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Kyoto, 1970). In 1977 the Secretary General of the United Nations conducted a survey which, because of its scope, was called the First United Nations Survey on Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies. In the European region, 14 States responded to this Survey. In 1982, the Survey was repeated, and this time a total of 22 European States responded. The responses to this latter Survey form the basis for the data referred to in this report.

Most of the data provided in the responses, and thus also most of the data cited in the present report, are taken from generally available published statistics. These sources of data are invaluable in studying the background to the crime prevention and control measures of a state, and every effort should be made to encourage the development of such published statistics. At the same time, however, the users of these statistics should be cautioned against using

them in comparisons, and especially against using them in attempts to demonstrate successes or failures of the crime control policy of certain states in comparison to others.

The report contains two main parts. The first part is the cross-national analysis of operations of criminal justice systems, analyzing the flow of cases through an idealized version of the criminal justice system: from the commission of an offence, through reporting and recording, investigation, prosecution and adjudication to corrections. The analysis is not intended to imply that this reflects in fact what happens to typical cases. Indeed, many cases are dealt with effectively and informally outside of the criminal justice system. Furthermore, many states have official procedures which could not be described in the scope of pre-established categories.

The second part of the report consists of the individual criminal justice profiles, as prepared by the experts. These are short and concise descriptions of the operations of the criminal justice system of the state in question. The profiles have been drafted on the basis of the responses to the Second United Nations Survey by the experts, after which they were sent to the national correspondents of the states in question for comments. In one case, there was no national correspondent who could be contacted, and in some isolated cases the correspondent could not be contacted, or did not have the opportunity to reply. In the cases of the states represented by the experts participating in the work of the group, the experts themselves attended to the verification of the data.

Obviously, any European report based on such diverse sources of data and elaborated by a handful of experts under the constraints set by the preparations for the Seventh United Nations Congress must unavoidably contain a number of misunderstandings, misrepresentations and even errors. Even so, the report may open new perspectives and provide experiences which can be used in future surveys.

The Helsinki Institute, in thanking the participating experts for their significant contribution, the United Nations Secretariat for its close assistance and cooperation, and especially the responding Member States of the European region for the valuable data provided, presents the report of the expert group in the hope that it will provide not only valuable data on the present situation in regards to crime trends and the operation of the criminal justice system, but also that it will provide insights into new innovations and choices in the pursuance of a crime control policy which will effectively contribute to the prevention and control of crime.

Helsinki, 16 May 1985

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**I. Conclusions and recommendations regarding crime control policy**

1. There has been an increase in reported crime. A comparison of the results of the First and Second United Nations Survey clearly indicates that the volume of crime shows no signs of decreasing, despite the heavy investments of manpower and other resources. Specifically, the crime rates in the major offence categories which have been examined in this report have increased in most countries. The conclusions must, obviously, primarily be limited to these States responding.

Despite the considerable unreliability of recorded crime as an indicator of the crime situation, and the particular caution to be observed in cross-national analysis, the expert group is nevertheless convinced that the main conclusions which emerge from this analysis would hold true even if additional data were available on unrecorded criminality.

2. There is no clear relationship between criminal justice resources and the problem of crime. According to popular belief, more policemen, improved correctional systems and other such investments in crime control can be expected to lead to a reduction in criminality. No such pattern is discernable in the data analysed here. It is true that a survey design does not lend itself very well to the identification of causal relationships, and that the quality of the data leaves much to be desired. Nevertheless, it might be argued that if there really would be a very strong and stable relationship between the scope and intensity of a state's crime control effort and its success in reducing the crime problem, such a relationship ought to be discernable even in this type of survey.

Observing that no direct relationship is easily identifiable between investment in resources and the crime situation, however, does not mean that the investments have been made in vain. Research indicates, for example, that increased police patrolling may reduce fear of crime, even if the actual incidence of crime is by no means reduced. Similarly, providing services to released prisoners is important from the point of view of protecting a particularly vulnerable group, even if such humanitarian measures would have no impact on the amount of crime in the society in question.

3. There is a need for a clearer analysis of where the actual "problem" lies. It has been suggested that each society has three crime problems: the actual incidence of crime, the society's investment in crime control in terms of resources and in terms of the severity of repressive and punitive action and, finally, the crime problem as depicted by the mass media. These three problems follow their own internal dynamics, and may at times grow more, at times less, acute. However, they maintain at all times a kind of autonomy in the sense that the impact of developments in one problem sector on the others is marginal or even non-existent.

On the basis of findings such as those referred to above, some crime control experts have stressed the relative autonomy of the various aspects of the crime problem. The initiation of specific control measures can frequently be seen as the outcome of administrative and political processes (in addition to the public pressure referred to above) rather than as logical necessities arising out of a crime control problem. Similarly, the effects of specific crime control measures tend to be very modest, as far as their impact on the level of crime is concerned.

In a corresponding manner the amount and the gravity of the crime problem - in terms for example of the risk that the average citizen has of becoming a victim of crime - has very little to do with the efficacy of crime control policies but is rather explained by a combination of demographic factors and factors related to the number of opportunities to commit crime, as well as e.g. the general social, political and economic conditions of society.

4. There is a need for a more realistic appraisal of the potential of the various crime control options. It would be a mistake to characterize such a redefinition of our current crime problems as pessimistic or cynical. On the contrary, by clearly indicating those margins within which effective action is indeed possible, a firm basis is created for meaningful policy action. Many promising avenues have been left unexplored because innovators have unrealistically assumed that certain crime control innovations would bring about dramatic and visible results. Such instances are and must be rare. A more realistic policy planning effort would be based on the realization that successful crime policies are based on a large number of small improvements. The results of such improvements can usually be demonstrated only through sophisticated research designs. The type of survey exemplified by the United Nations Surveys are valuable in that they provide background data and reference material for such research designs, even if such surveys usually cannot be used for the purpose of identifying successful and unsuccessful policies.

Consequently, decision-makers, including criminal justice practitioners, should be encouraged to pursue crime control policies which, at no real risk of aggravating the crime situation, are based on considerations of fair and humane treatment of offenders. At the same time the public should be made aware of these policies and their underpinnings.

5. The criminal justice system should be submitted to regular review. Since the notion of punishment and crime constantly evolve, any crime control policy should be based on a regular review of its meaning, scope and effectiveness. Traditional crime is just one area requiring ongoing attention and flexible reaction by criminal justice administrators. It should be noted, however, that the harm inflicted by traditional offences in many cases does not exceed the suffering caused by unconventional victimisation

resulting from ecological disasters, products of a low and dangerous quality, or ill-designed technological processes or poor social engineering.

Even so, criminal law is rarely called upon to react to such cases, as obviously there are considerable difficulties in allocating responsibility for such acts, and these acts cannot be effectively controlled through the limited means available to criminal justice.

6. Alternative means should be sought. It would be desirable to seek alternative means, both to control traditional offences and to control other forms of inflicting harm. Not only might such alternative means be more effective, but they may also rationalize expenditure. Particular caution should be exercised in adding to the burden of the criminal justice system. The criminalization of undesirable behaviour has by tradition been seen as the solution. This is not necessarily the case. Attention should be paid instead to combinations of alternative means and to decriminalization as the more effective response. A trend towards civil compensation for any losses or damages should be pursued.

7. The extent of the use of imprisonment should be limited. The experts noted the many problems connected with wide-spread use of incarceration. The experts agreed that, as desirable as a policy of expanding the use of alternatives to imprisonment may be in theory, in practice it may run counter to the pressure of public opinion regardless of the absence of substantiation for the view that increased use of imprisonment contributes to the reduction of crime. The available data from 16 European states shows an aggregate of 340 000 prisoners on a given day; this means that one in every thousand inhabitant is serving a sentence in prison. The total for all European states may well be over one million. Such an extensive use of incarceration may have no real influence on the concurrent or subsequent incidence of crime.

Consequently, the use of alternatives to imprisonment serving the same purpose of punishing should be expanded, but on the understanding that they involve a lesser degree of unnecessary and uncondusive suffering.

The non-execution of such alternative penalties and especially the nonpayment of fines should not in principle lead to imprisonment, as those ultimately unable to pay are most frequently in a poor financial situation, and thus they are in effect indirectly penalized for this condition.

In the cases where imprisonment is used, the execution of the sentence should constantly and appreciably emphasize the goal of using the period of incarceration in order to increase the prospects of the offender in adapting himself to life in freedom. The attention of the decision-makers should be drawn to a possible redistribution of staff resources if it is found that the above goal could be more successfully achieved through such means.

8. Special attention should be paid to limiting the length of pre-trial detention. The shortening of periods of pre-trial detention in the European states should receive special attention. On the basis of an overview of national legislation and policies, it would appear reasonable to suggest that these states are in fact in a position to shorten these periods and, consequently, that the proposal made at the European Regional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Sofia, Bulgaria, 6-10 June 1983) to introduce into the Covenant on Civil and Political Rights a provision limiting the length of detention to a maximum of six months, should be supported. (Cf. A/CONF.121/RPM/1 and Corr.1)

## **II. Conclusions and recommendations regarding statistical issues**

This Survey evidences the readiness and ability of Members States to provide a considerable amount of very informative data, even if the differences in the criminal statistics lead to inevitable questions as to their comparative value. Nonetheless, it should be emphasized that there has been a considerable increase both in the number of responses and in the quality of the data provided. Further efforts should be made to increase the number of responses to the United Nations Surveys.

In view of the documented utility of regional and international analyses, which are the sources for information and possible advice on developments in the criminal justice field in Member States, it is re-emphasized that the United Nations Secretariat should consider the initiation within the near future of the Third United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (1980-1985).

The data provided by the European States may serve as a bench-mark guiding the United Nations Secretariat towards a more streamlined design of the questionnaire for the Third United Nations Survey for these States and for developing states. In this connexion the technical publication prepared by the United Nations Secretariat entitled "Manual on Collection and Analysis of Criminal Justice Data" should be of assistance to reporting states.

It is important for cross-national studies to use alternative sources in gathering information about the main functions of the criminal justice system. If in one country the power to decide some (usually trivial) cases has been delegated to the police, and another country brings such cases before a court of law, any comparison of court statistics only will obviously be quite misleading.

A major portion of this study was limited to a small number of so-called traditional offences. In conjunction with the United Nations Surveys in question, other surveys should be used to deal also with other offences. This observation is made with particular reference to the situation that most new criminalizations take place outside of the laws of the general criminal codes (e.g. in such fields as traffic, pollution, working conditions, taxes, business and other white collar and corporate crime, terrorism etc.).

Statistics are often designed to serve the interests of the administration in question. Increased attention should be given to the possible use of statistics for analysis transcending jurisdictional boundaries.

Another way of generally arriving at more meaningful comparison in the future might be to use situational definitions probably common to all societies concerned, and to ask for the relevant legal terms and for technical statistical terms used in practice. Also, the respondents should be requested to provide an explanation of the counting rules that have to be taken into consideration.

### III. The results of the cross-national analysis



## 1. Introduction

### 1.1. The purpose of the report

This report seeks to describe, primarily on the basis of the information provided by the respondent countries to the Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies (1975-1980), the criminal justice systems of the countries within the European region. The concrete aim is a twofold one: (a) to describe the main characteristics of each system and (b) to comment upon the existing statistical information in an attempt to analyze, on an empirical basis, how the systems work. The data in the Second United Nations Survey has been supplemented by the national correspondents and other sources.

In spite of the considerable extent of cooperation and discussion concerning crime policy within the European region, there has until now been no attempt to prepare a descriptive, cross-national study covering the region as a whole. Several reasons have been presented for this. The main objection to such an undertaking has usually been that, due to historical, cultural, political and economic factors, the systems are so different that no comparisons can be made.

The present report does not fully accept this view. It is believed that it is possible to make meaningful cross-national analyses. This report is the first step in such a direction. It is also believed that the information resulting from such analyses is of importance for the countries involved, as it may provide them with a greater understanding of how other systems function, and thus they may obtain new insights on possible improvement and changes in their own system.

Such a view, however, is not meant to be an underestimation of the difficulties involved in cross-national studies. Especially the statistical part of the analysis raises many issues, due to the fact that most available statistics are made for purposes other than comparison. Furthermore, some countries do not have statistical information about all relevant variables, thus making the data incomplete. In addition to these factors, there always exist questions arising from the fact that the definitions used may differ from country to country, and that the figures are not always reliable. The remedy for these problems is to improve the statistics, something which may in turn be greatly facilitated by the increasing computerization of information systems and by further strengthening of regional and international cooperation.

It is important to notice that the following report does not aim at describing the crime situation in the countries

of Europe. The data on recorded offences - although often considered to reflect this situation - do not necessarily describe the actual crime picture and there may exist substantial differences in the dark number between the countries.

Furthermore, differences exist in respect of legal definitions and/or police discretion. Also the manner in which crimes are recorded in the statistics (e.g. one event may be recorded as more than one crime, or several events as one crime) may influence the figures presented. However, even with these limitations, statistical information on reported crimes is of interest, because it is those crimes formally reported which are processed through the criminal justice system. It is this process which the following report intends to describe.

## 1.2. Criminal justice systems

All countries involved have formal organizations with specified and recognizable authorities in charge of each step in the process. From a functional point of view these authorities have the power to make certain types of decisions. The functions, and hence the related decisions, may be divided into the following four:

The policing function, which includes decisions to admit and report situations as crimes and to take steps to clear up the crime involved (which usually, but not always, means finding the offender and gathering sufficient evidence to bring him to justice).

The prosecutorial function, which includes the duty to decide whether to prosecute or not and to present the case before a court of law.

The adjudicatory function, which includes the duty to decide whether a suspect is guilty or not and to decide upon the sanction.

The correctional function, which includes the duty to enforce the sanction imposed.

For a realistic understanding of the European criminal justice systems, it is important to notice that the four functions presented here do not necessarily correspond to the existing authorities called the police, prosecutors, courts and correctional authorities (prison authorities etc.). Police functions may be delegated to authorities other than the police proper (e.g. traffic wardens, custom officers). Prosecutorial functions need not necessarily be the duty of a special authority but may be the duty of the police (e.g. in England and Wales) or it may be that the prosecuting authority is charged with dealing with serious

offences while the police is charged with the handling of less serious cases. As for the adjudicatory functions, these may be performed not only by the courts of law but also by both the police and the prosecutors (and by other authorities, such as child welfare boards). In most countries traffic violations are in fact handled by the police, combining the above functions of policing, prosecution and adjudication. Less serious criminal offences may in many countries be decided by a prosecutor or a police officer without any confirmation by a court of law.

As might be understood from what has been mentioned above a comparative study must look more at the actual decision process and the functions of the authorities than at the label these authorities have.

Since one criminal justice system differs from another one in respect of how the functions mentioned here are handled by the authorities, and since each authority usually presents its own statistical report, it is important for cross-national studies to use alternative sources in gathering information about the main functions. If in one country the power to decide some (usually trivial) cases has been delegated to the police, and another country brings such cases before a court of law, any comparison of court statistics only will obviously be quite misleading.

The further one gets through the criminal justice system, the greater the reliability and specificity of the existing statistical information. Thus, the statistics on sentences pronounced by the courts of law are fairly reliable, especially in cases involving criminal code offences, while the statistics on the great mass of decisions made by other authorities, especially for offences against laws outside of the main criminal code of a country (e.g. traffic laws) are much less reliable.

### 1.3. Some issues involved in cross-national studies

Although various specific issues which will arise will be considered later on in the report, some more general issues are presented here.

**Legal definitions.** The general concept of crime is seldom suitable for cross-national studies, since countries differ in respect to what has been criminalized. Also, some countries divide offences into crimes and violations, and sometimes the latter group is not included in the official statistics. Correspondingly, legal descriptions of individual types of offences vary in different countries. For example, assault is an independent criminal offence in some penal legislations while in others only assault resulting in bodily injury is subsumed under a similar category. Thus, owing to different legal definitions, the number of

assaults is higher than that of bodily injuries. Penal systems differ also with regard to the frequency of subsuming an attempted offence or an offence committed through negligence among punishable acts. Finally, there are also some differences in determining criminal responsibility, though there are fewer differences in this respect among the countries of Europe than in the world in general.

**Interpretation of laws.** Even if the legal definitions appear on the surface to be similar, they may be interpreted differently by the courts and other authorities. The interpretation of the law may well change over time, and from one region of a country to the next.

**Discretion.** Countries may differ concerning the discretionary power of the authorities. Some countries adhere to the principle of legality, giving very little discretionary power to police and prosecution, while others adhere to the principle of opportunity, according to which these authorities are obliged to investigate and prosecute primarily when such actions are regarded to be in the best interest of the society. There is also a modified principle of legality, according to which an act is not treated as an offence if it constitutes only a minor danger to society. Furthermore, in some countries the legality principle is qualified by the rule that certain offences are subject to prosecution only on motion or the filing of a private charge. Each of the above principles, adopted differently by different countries, leads to differences in the quantitative data on criminality. In addition to these formal rules of procedure one may expect that there will develop more or less informal customs of discretion without which the authorities would not be able to handle an increased load of cases.

**The victim's interest in reporting.** Great variations can be expected in different countries regarding the frequency in the reporting of offences of which individuals have become the victims. Many factors influence a decision to report and considerable variations exist for different types of offences.

**Crimes without victims.** The number of crimes against public order (or against local ordinances) varies according to the initiatives taken by the authorities.

**Recording incidents as offences.** Differences in cross-national crime rates may exist due to under/overreporting and to the use of different ways of counting events, persons and decisions. What finally is recorded is the result of an interplay of various sets of recording rules and organizational arrangements. For example, in Yugoslavia separate statistics are kept on misdemeanours, while in Finland and Austria the criminal statistics include offences which in Yugoslavia belong among petty offences.

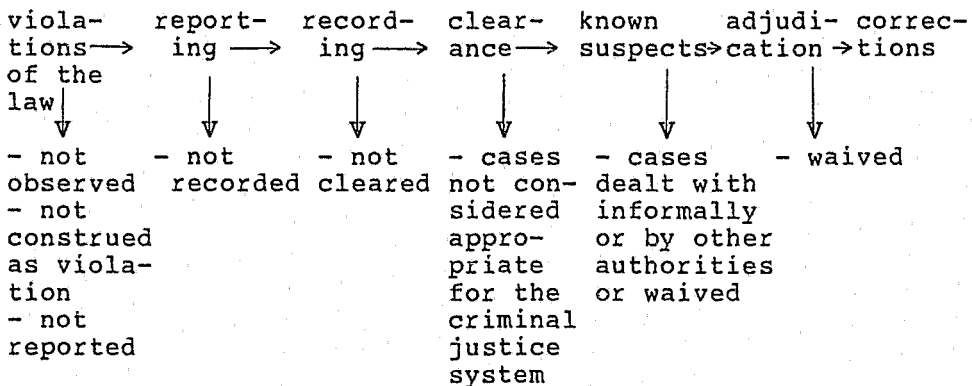
A conclusion on the basis of the above is that quantitative cross-national studies of criminality are still in the process of development and should be interpreted cautiously. However, even within the purview of the presently available cross-national statistics, there is also a need to reconsider the common conviction that penal statistics reflect the degree of morality in a nation, a conviction nourished and consolidated over many years. Since the beginning of the present century, there has been an awareness that this conviction is not valid, and that these statistics largely record only the interactive conflict between the suspect and state. Therefore it would be possible in the future to view these statistics with greater confidence, but only in the sense that they may disclose the number of such conflicts in different states.

#### 1.4. The flow of cases

The flow of cases through the criminal justice system can be depicted in the form of a chart such as the following.

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Chart 1. The flow of cases (and/or persons)



The above flow chart depicts the transition of a case (and of suspected persons) through the criminal justice system. It is important to notice that, although this report is structured to depict the flow of cases entirely through the system, many cases either never enter the system, or are channelled out of the system at an early stage. For example, studies and experience indicate that the large bulk of cases, in particular those involving petty violations, are not observed, are not construed as violations, or are not reported. In this last case, the violation is often dealt with informally.

## 2. The selection and working definition of crime used in this report

The Second United Nations Survey of Crime Trends, Operations of Criminal Justice Systems and Crime Prevention Strategies, which formed the basis for this report, included questions on the amount of total crime, intentional homicide, non-intentional homicide, assault, drug crimes, rape, kidnapping, robbery, theft, fraud and embezzlement, and bribery and corruption.

The data on total crime reflected inter alia the following differences between the statistics of the different states:

- some states included traffic offences, drunken driving and/or petty offences while others did not;
- the differences in the discretionary powers of public prosecutors are great (cf. the discussion of the legality or opportunity principle, and the private charge or prosecution by way of motion, below in this section).

For example for these reasons and those mentioned in the preceding section, the following report will not consider the total amount of recorded crime. The report will also refrain from commenting on the data regarding several other offences. These offences, together with an example of the differences in the statistics, were as follows:

- non-intentional homicide (some countries include traffic offences resulting in death);
- drug crimes (the differences in the legislation controlling this field are considerable);
- rape (some countries also subsume sexual relations with minors under this heading);
- kidnapping (there were relatively few answers concerning this item. Some countries noted that this offence is not recorded separately in police statistics. In addition, some countries included deprivation of liberty under this category);
- fraud and embezzlement (some countries also include tax fraud, cheque fraud and the use of false pretences under this category, while other countries only included commercial fraud).
- bribery and corruption (the differences in the definition of these offences are considerable).

The following offences remained as the basis for the cross-national analysis: intentional homicide, assault, robbery and theft. The Survey included working definitions of the offences, in order to increase the comparability of the responses. Some of the national respondents supplied details on the definitions of the offences used in their countries, but often this information was not available. Furthermore, it should be taken into account that usually the data were not entered by the respondents themselves, but by the administration who had the responsibility for collecting the statistics. There were also linguistic difficulties related to the formulation of the questionnaire.

Listed below are some of the issues raised by the definition of the four offences in question.

**Intentional homicide**, according to the definition given in the Survey, refers to death purposely inflicted by another person, including infanticide. The definition of intent, however, may well vary from country to country. Moreover it is not clear whether individual countries included under this category e.g. deaths which occurred in connection with robbery, rape or assault.

**Assault** refers to a physical attack against the body of another person including battery, but excluding indecent assault. In the analysis of the data, it was noted that some countries do not consider assault as such an offence, unless it involves physical injuries (e.g. Yugoslavia, Poland and the Federal Republic of Germany) or maltreatment (Poland, the Federal Republic of Germany and France). In for example Yugoslavia also minor bodily injuries are punishable on the filing of a private charge. This difference in definition may be one explanation for the observation that the number of recorded assaults per 100 000 in population (aged between 15 and 64) is 6 times smaller in Yugoslavia than in e.g. Austria.

**Robbery** refers to the taking away of property from a person, overcoming resistance by force or threat of force. Some states classify robberies resulting in death as intentional homicide while other subsume them under robberies. Furthermore, some countries include extortion in this category, while other countries consider it a form of qualified theft.

**Theft** refers to the stealthy taking away of property without the owner's consent, including burglary and house-breaking. It includes theft of a motor vehicle and both simple and aggravated theft as defined by the criminal law of each country. Shoplifting and other minor offences, e.g. pilfering and petty theft could be included or not, according to the usual practice of each country. The respondents were to indicate which was the case in their

country. The question of the inclusion or the exclusion of petty theft in particular may be one explanation for the considerable differences in rates. These rates (per 100 000 population) vary from 9 621 in Sweden to 74 in Czechoslovakia.

The report will also consider the responses to the First United Nations Survey so that the trends in offences can be compared over a period of 10 years (1970 - 1980). However, new issues arose due to the fact that responses to the First Survey were sent in by fewer states than the second and that in some countries (such as the Federal Republic of Germany and Yugoslavia) there had been substantial changes in the legislation in the meantime.

Therefore the report remains within modest limits of a cross-national account. The report primarily deals only with the offences of intentional homicide, assault, robbery and theft, and does not for example deal with more modern forms of crimes, although for example the section on adjudication and corrections covers a much broader range of offences.

### 3. Reporting

#### 3.1 General comments

The official statistics on offences and violations reported to the police are frequently used as if they would indicate the actual amount of lawbreaking. A major share of all offences, however, are not reported. During the last two decades in particular an increasing number of studies of self-reported criminality and victimization surveys have verified that in most offence categories non-reporting is, in fact, the statistically normal end result.

The early studies of self-reported delinquency provided a rough idea about the dimensions of the non-reporting issue. They indicated that, contrary to popular stereotypes, the vast majority of the population has engaged in various types of lawbreaking - although the violations in question are generally petty. The apprehended offenders remain a minority. This may be primarily due to the failure of the authorities to detect the offence or the offender: this is the case in e.g. such offence categories as tax evasion or dangerous driving, where there is no individual victim nor otherwise directly involved personal interests. Those offences which typically are investigated on the basis of a complaint from a victim comprise another group of offences. Most conventional offences against the person, such as theft, assault, fraud, rape and vandalism, belong to this category.



### 3.2. Public-initiated reporting

A person who has committed a theft or an assault does not necessarily know anything about whether or not the offence was reported to the authorities. The victim is usually the best source of information on this type of crime. Victimization surveys provide a tolerably accurate picture of the true incidence of offences which involve direct harm to the victim or to something for which he feels responsible. Vagrant, homeless or otherwise poorly integrated - and frequently heavily victimized - segments of the population are, however, not effectively reached with the standard survey techniques usually used in victimization studies. Offences against children and foreigners may also be difficult to investigate with conventional survey methodology. Reliable analyses of serious crimes of violence must be made on the basis of official records. A further limitation of victimization surveys is that a considerable spectrum of offences is poorly accessible to this approach; this includes corporate victimization and offences without individual victims. Generally, it can be said that it is necessary to combine victimization measures with other sources of information in order to provide a comprehensive picture of the true amount of violations of the law.

One important finding from the victimization studies is that the vast majority of all illegal acts are never reported to the authorities. Many of the changes in the volume of recorded crime are, as a matter of fact, attributable to changes in the way the victims, the public and the authorities react towards offences which have come to their notice. These changes may be difficult to discern as they are not necessarily abrupt and dramatic. A more usual development is exemplified by the tendency in some highly developed countries to gradually improve the efficiency of reporting and recording practices, with a consequent increase in the ratio of recorded to unrecorded offences - which in turn may give the impression that the crime level is increasing.

Another important finding of victimization research is that reporting practices tend to be fairly uniform and predictable, the single most decisive factor being the gravity of the offence.

Regardless of whether the reporting was done by the victim (as usually is the case), by an eyewitness or by the authorities themselves, the probability of reporting increases with the seriousness of the offence. Very serious crimes against the person (armed robberies, assault causing permanent injury etc.) are rarely left unreported.

The first regular victimization surveys were carried out in the United States in the 1960s. Several European countries, for example the Federal Republic of Germany, France, Poland

and Yugoslavia, have carried out regional victimization surveys. The first European study of self-reported victimization based on a nationwide sample was carried out in Finland in 1970. When incidents of violence were dichotomized into those involving at least being hit by the offender and into less serious offences, the reporting percentage for the former was 37% and for the latter category only 8%. Studies of the reporting of crimes against property reveal a similar pattern. In a recent Swedish study based on a nationwide sample only 4 out of 10 victims of theft or vandalism involving a net loss of less than 500 Swedish crowns reported the incident. When the loss was higher, 8 out of 10 told the interviewer that they had reported the incident. As the less serious offences form the majority, the aggregate reporting rate was 47%. Even allowing for the fact that not all of the alleged reports had actually been made, this is a fairly high figure. In a large-scale study in Finland in 1980 the respondents told the interviewers that the police was notified in 27% of all property crimes directed against individuals and that a police investigation was carried out in 17% of the cases. The true incidence of reporting was, however, apparently considerably lower. According to the British Crime Survey of 1982, 66% of all burglaries were reported to the police but only 31% of the thefts from persons and 18% of the thefts in a dwelling were reported. The prevalence of insurance coverage and the rules governing the payment of compensation may explain some of the variations in reporting rates between countries.

The British study gave a reporting percentage of 39% for wounding. The Scandinavian studies, which included minor incidents of violence, generally gave much lower reporting rates for violent offences than for property offences. According to the Finnish study cited above 9% of all violent incidents were reported to the police: if there was some visible injury the reporting rate was 16%. The corresponding figures - the questionnaires were not altogether comparable - in the Swedish study were 20% and 27%.

The series of victimization studies carried out since 1976 in the Netherlands suggest that the extent of the victim's protective measures against crime is correlated with the tendency to report an offence. A world-wide survey of burglary and robbery reporting seems to indicate that roughly one half of the former and more than one half of the latter are reported. The use of weapons correlates with the probability of a report. There is some evidence for the early finding that women, elderly people and inhabitants of large cities are more prone to report an offence. In general the personal characteristics of the victim seem, however, to be minor determinants of the reporting rate when compared with the main and decisive factors, which are the perceived seriousness of the offence and - in the case of property offences - the link between reporting and the

prospects for compensation, through for example insurance schemes.

### 3.3. Authority-initiated reporting

Traffic offences and offences against the fiscal interests of the state are rarely reported by private citizens. The amount of recorded criminality therefore primarily indicates the control resources available for surveillance and investigation and the way these resources have been allocated. Obviously, the figures cannot as such be used to indicate the actual amount of crime unless the control factor is somehow taken into account. Thus, for example, an indicator of drunken driving that is sometimes used is the ratio of apprehended drunken drivers to the sum total of traffic violations. In such an analysis, this latter figure is thought to indicate the resources and the general level of activity of the police. Those countries which use random breath-analyzer tests have the option of measuring drunken driving as the percentage of positive tests. Similar indicators based on a relation between control measures and noted violations are conceivable for tax and other fiscal offences.

In many developed countries, the police statistics can be supplemented with other statistical sources. Even the use of such additional sources, of course, will not lead to a true picture of crime within a given society since crime can not be strictly measured by any methodology. However, the availability of such data makes it possible to evaluate more accurately the crime situation as depicted on the basis of the law enforcement record-keeping rules and customs. With regard to traffic crimes, for example, one such alternative source might be the accident statistics. Concerning housebreaking, the theft of cars, arson and damage to property (to name only a few examples), the statistics of insurance companies can be utilized. Concerning homicide and assault one could quite often and easily compare figures on causes of death or causes of illness as given in national health statistics or, internationally, in the World Health Organization cause-of-death statistics.

### 3.4. The implications of the reporting issue

The observations above contain a warning against using figures on recorded crime as if they were figures on the actual amount of violations of the law. The use of crime statistics calls for an understanding of how the selection mechanisms associated with reporting single out those offences which are to be brought to the attention of the authorities. It would, however, be erroneous to view figures on recorded crime merely as poor substitutes for indicators of the total amount of crime. The resources of

the criminal justice system are limited and must be directed towards the most serious offences. Victims in particular have an extremely important role as "gatekeepers" of the control system. Contrary to what has sometimes been hypothesized e.g. on the basis of certain American studies, research in Europe appears to indicate that fear of reprisal or dislike of the authorities are factors of only minor importance in explaining the incidence of nonreporting. The decisive factor is the victim's evaluation of the offence and of the costs and benefits of reporting. The very fact that an offence has led to a complaint thus gives it a special significance, reflecting i.a. fluctuations in the tolerance level of the public. Victimisation studies and other such sources of information are needed, not to replace but to supplement statistics on recorded crime.

#### 4. Recording

##### 4.1. General comments

In discussing problems of crime recording one has to begin with the entire number of incidents reported to the police by victims, bystanders or other persons informed or concerned. However, it is quite clear that the term crimes known to the police also includes crimes detected by other means of information gathering, such as through the use of police patrolling, undercover agents, informants, the screening of advertisements in newspapers (with reference e.g. to prostitution, the receiving of stolen goods, white collar or economic crime), special task forces or squads and the like. A few studies done in this field appear to indicate that, on the average, up to 90 % of all crimes against individuals recorded by the police have been reported by private persons. On the other extreme are e.g. drug crimes and economic crimes, the detection of which is heavily dependent on proactive police strategies and tactics.

Irrespective of the particular way a certain crime (or incident) may be noticed by a police officer or a member of other authorities responsible for law enforcement, it should be emphasized that this act of acknowledgment of the crime (however formal or informal) does not automatically lead to the official registration of the crime. Different countries follow quite different policies as to how far an individual police officer is allowed to decide by himself whether an incident should be treated as a crime or non-crime or, if defined as a crime, handled officially or unofficially or, if handled officially, whether it should be transferred to another law enforcement agency, e.g. in cases of special jurisdiction. But even within a given criminal justice system, regions or local units may widely differ in their modes of adapting to the official/formal rules governing the behaviour of the persons responsible.

The conclusion is thus that not all offences reported to the authorities or otherwise known to them are actually recorded. Moreover the term recorded has an ambiguous meaning that is sometimes not taken into consideration by those involved in analyzing crime figures. To the extent that the police use their discretion in some cases to waive further measures entirely or to divert them to other channels without any formal notice, there is simply no recording at all.

Nevertheless, within police administration there are various expanded bookkeeping systems involving data that will never end in a formal public record or, in particular, in police crime statistics. This can be related to issues of definition or discretion. One rather well-known example is domestic violence. Many city police forces deploy a substantive part of their patrol resources to deal with domestic disturbances such as family disputes, wife battering, child maltreatment, neighbourhood fights and similar events within the framework of close personal relationships. On the basis of a strict legal definition, many of these cases involve crimes of different kinds. The events could sometimes quite easily be defined even as attempted murder. Patrol officers, however, tend to view their role as a peace-keeping one, and try to settle the conflict and admonish the participants not to continue such behaviour. As a consequence a more or less detailed report of the event may be entered into the patrol unit file under the heading of domestic disturbance, but nothing will be entered into the official record for purposes of statistical counting.

Even in the remaining matters where a formal record is made, there is still a considerable possibility in the various countries that the event will not be recorded as a counting unit for the official criminal statistics. In the case of Yugoslavia and Poland, for example, light bodily injury is subject to private prosecution and is generally not included in the police statistics. In the case of the Federal Republic of Germany, Yugoslavia and Sweden all traffic crimes, including those dealt with in the penal code and implying heavy injury, are not included in the police statistics. However, later on, in all of the above examples the case will be included in the court statistics if the offenders have been convicted. White-collar crimes (e.g. tax evasion), political crimes, drug crimes and military crimes can be cited as examples of other offences that in some countries will be recorded by the authorities in question only for internal use, and will not be published. Finally, it should be noted that some categories of offences are investigated by authorities other than the police, and are not reflected in the published statistics.

When analyzing and comparing gross figures of crimes known to the police, it should also be recalled that many countries may differentiate between crime and violations with regard to the same category of behaviour (in substance) depending upon e.g. whether or not the damage caused surpassed a certain limit or relating to the question of the intent or negligence of the perpetrator. In certain socialist countries minor forms of predatory behaviour (such as department store theft) are formally excluded from the legal concept of criminal behaviour. Such cases, then, are consequently not registered in the police statistics if handled outside the court system.

Another example of differences in the classification of offences for entry into the statistics is that in the Federal Republic of Germany crimes were, up to the 1970s, originally divided into three categories common to many continental penal systems: felonies, misdemeanors and contraventions. Following the new "Ordnungswidrigkeitengesetz" in the course of general penal law reform the category of contraventions was eliminated. The majority of what had been termed contraventions were formally decriminalized, i.e. commuted to "Ordnungswidrigkeiten" (a kind of administrative offences). These new administrative offences consequently no longer show up in the criminal statistics. This effect is important e.g. for traffic offences and tax offences. Sweden and Finland, in contrast, include even minor traffic offences in the category of crime (in the technical term). Therefore, when for example comparing the total number of crimes reported in Sweden and in the Federal Republic of Germany - 17 370 per 100 000 in population between 15 and 64 years of age in Sweden, but only 9 363 per 100 000 in population in the Federal Republic - it should therefore be recalled that a considerable part of the statistical difference is due to these different concepts of traffic crime and to the different policy in recording the various types of crime.

National systems of crime record-keeping differ e.g. with regard to the point in time when a given event is to be recorded as crime. Thus, the national figures are influenced by whether or not the definition adopted at the time the offence is first reported is used, or whether the final outcome of the investigations is used. The Federal Republic of Germany, Yugoslavia and Poland are examples of countries using the final outcome of the police investigations in compiling the relevant statistics.

The majority of crimes reported to the police refer to single events and single actors. Most offenders commit only one or a very few offences during a year or even during a longer period of time (to be more precise, they are only caught once or twice a year by law enforcement agents). In this regard, there are no bookkeeping issues for the criminal statistics. The statistical unit is the

case and, after clearance (see section 4), the offender as an individual. But obviously, the question of the appropriate statistical unit for counting will quickly become critical in all cases of multiple events. Such multiple events could be characterized by one (physical) act that fulfills more than one legal definition of crime, or by multiple acts, multiple offenders responsible for the act(s), multiple victims or even by a mixture of these ingredients.

This means that each system of criminal statistics - and also each system of law - has to develop open or tacit rules on how to deal with complex events. E.g. a concurrence of offences and continued offences often have intriguing juridical-dogmatic implications with regard to charging, convicting and sentencing. The European countries differ remarkably in their manner of reducing complex "life units" to statistical units. Even within one given system the counting rules might cause severe distortions of the crime picture as handled by the authorities.

For example, in several countries an offender is counted separately as a person suspected of a crime each time a new law enforcement procedure is directed against him. Repeating offenders caught several times by (different) police authorities within the span of one year consequently end up being recorded each time in the relevant criminal statistics. Since seemingly only a very few countries have the possibility of recalculating the figures, the total number of offenders shown in the annual criminal statistics exceeds the number of individuals charged with crime. As the propensity for repeating offences generally decreases with age, such counting rules may give a distorted picture for example of youth crime as opposed to adult crime - when calculated on the basis of the number of individual offenders. In the Federal Republic of Germany, for instance, recent evaluations indicate that, on the average, 25 % of the official juvenile crime rate might be due to counting rules, whereas the difference among adults is less than 10 or even 5 %, depending upon the age group. In metropolitan areas the juvenile statistical "surplus" is said to reach nearly 50%.

Longitudinal analysis on the national and, even more, on the international level will further be impeded by the possibility of various changes in concepts of crime, rules of counting and practical modes of administering law enforcement and justice. Sometimes the influences of those changes pertain to the general crime figure (e.g. new criminalizations), sometimes they dramatically affect the official picture of actual crime. This means that even if one intends to concentrate comparative efforts upon carefully selected types of offences that seem to have rather similar connotations over time and among different countries, it is of utmost importance to control for such influences before drawing any final conclusion.

#### 4.2. Data on recording

Table 4.1. provides data on the number of recorded offences in the four categories. As noted in section 2, there are many issues relating to, for example, the definition and counting of these offences, which hamper cross-national analysis.

To repeat some of these issues, in the case of intentional homicide, some countries include attempts, others do not. The concept of intention might also differ. Furthermore, for example Sweden includes assault resulting in death, the Federal Republic of Germany does not. Also the statistical unit may differ substantially. It seems as if a few countries count the number of victims of homicidal acts whereas the majority of countries count the number of homicidal events irrespective of how many victims each event involved. Concerning assault, it should be noted that some countries exclude petty offences or assaults of officials. As for robberies, for example Finland, Poland and Sweden include extortion and theft with violence. However, in the case of Sweden, if the circumstances as a whole were petty, the case might be dealt with as theft and assault. In respect of Yugoslavia the figures usually do not include robberies resulting in death, since these can be recorded as homicides.

In the case of theft, the significance of these counting issues is reflected in the considerable variation of rates, ranging from 74 per 100 000 (Czechoslovakia) to 9 621 per 100 000 (Sweden).

The figures for the Federal Republic of Germany, Finland, Poland and Sweden all include petty or minor offences. For e.g. Sweden and Finland one has to note in addition that in the case of continued shoplifting each incident is usually counted separately. The Federal Republic of Germany and the United Kingdom include theft of property with no value. In Poland, on the contrary, the term minor offence does not refer to so-called transgressions, defined as those thefts involving items below 500 zlotys in value.

The figures given for Finland include petty theft, ordinary theft and aggravated theft alike but not the theft or unauthorized use of motor vehicles. Also Denmark excludes theft and illegal possession of all kinds of vehicles for purposes of limited use. For Denmark, these events would add another 85 000 cases to the 135 000 cases officially recorded as theft. On the other hand, the data given for the Federal Republic of Germany includes all kinds of vehicle theft and unauthorized use of motor vehicles.



Table 4.1. Recorded offences. Selected offences, 1980.  
Absolute number and number per 100 000 in  
population (15 - 64 years)

Country	Intentional homicide		Assault		Robbery		Theft	
	rate	N	rate	N	rate	N	rate	N
Austria	3.4	164	669	32292	19.7	950	3244	156649
Czechoslovakia	1.2	112	76	7378	8.3	805	74	7150(1)
Denmark	7.1	237	164	5462	43.9	1461	6806	226292
Finland	7.8	254	430	13964	57.6	1869	3117	101155
France	6.1	2084	96	32926	14.1	4841	4668	1607244
FRG	6.7	2733	441	179740	58.1	23691	5982	2437824
Greece	1.9	117(2)	68	4208	1.3	81	288	17750
Ireland	..	..	..	..	69.2	1334	2050	39514
Italy	5.4	1977	88	32118	11.8	4303	5868	170170(3)
Netherlands	(4)	(5)	143	13409	(5) 45.3	4243	5112	478672
Norway	1.2	32	167	4309	13.2	341	3823	98888(1)
Poland	2.7	641	20	4586	..	..	779	183293
Spain	0.1	31(6)	56	13190	104.1	27442	1330	314705
Sweden	7.4	394	462	24668	64.1	3427	9621	514130
United Kingdom:	3.3	1201	278	99572	54.9	19695	6495	2329239
-England and Wales	..	775	..	95601	..	15006	..	2043044
-Scotland	..	338	..	3966	..	3723	..	257562
-N.Ireland	..	88	..	5	..	966(7)	..	28633
Yugoslavia	9.1	1348	114	16954(1)	6.8	1009	589	87527(1)

## Footnotes:

1) excluding minor offences. All the other figures in this column include minor offences

(continued on bottom of following page)

Considering countries that give very low figures for theft such as Czechoslovakia and Greece, this could at least in part be attributed to counting rules or practice leading to the recording of either the more serious cases and/or such cases where the offenders are already known.

The decision as to what part of the population should be used as the base population in calculating the rate of an offence is not a value-free choice. In Table 4.1., the population between 15 and 64 years of age has been selected as such a base.

Regardless of these manifold problems in methodology and substance, the data for theft in Table 4.1. seem generally to show quite clearly that the wealthy nations not only provide more legal but also more illegal economic opportunities. In addition to rather general statements of this kind one should abstain from detailed comparisons even between countries at a similar stage of industrialization or development; the figures should not be used to state, for example, that country X has twice the burden of homicides as country Y. Such conclusions could only be made after careful consideration of legal concepts, the dominant juridical modes of interpreting such legal concepts by the police and the judiciary, and the dominant form of counting events. By doing so, the differences between some countries may well fade away, while differences between other countries may increase.

The time period covered by the responses to the Second United Nations Survey (1975 to 1980) was not long enough for taking up the issue of the trend in recorded crime, even regardless of all the methodological and substantial precautions mentioned above.

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Footnotes to Table 4.1 (continued)

- 2) crimes committed as recorded by the prosecution authorities. Figures provided later on as recorded by the police authorities are as follows: intentional homicide, 54; assault, 10 153; robbery, 74; theft, 17 393. The large difference in the assault figures is due primarily to the rule that these offences are prosecuted only on the formal request of the victim.
- 3) in the largest city (Rome)
- 4) the Dutch statistics include both intentional and unintentional homicide. The category includes all crimes against life such as murder and manslaughter
- 5) includes both attempts and completed offences. Ca. 90% of these crimes are attempts
- 6) robbery = theft in which violence was used
- 7) estimate

However, a superficial impression of the trends can be obtained by placing side by side the responses of countries to both the First United Nations Survey (1970 to 1974) and to the Second (Table 4.2.).

As already mentioned in section 2, the crime categories used seemingly were not identical in the strict sense of the word but, when considering the rather elaborate explanations given by the United Nations Secretariat in the questionnaires one might assume that the basic concepts are similar enough to allow at least informed guesses or interpolations.

Table 4.2. Crimes known to the police (1970) and crimes reported by the police or other law enforcement agencies. Selected countries.

Country	Intentional Assault				Robbery		Theft	
	homicide							
	1970 N	1980 N	1970 N	1980 N	1970 N	1980 N	1970 N	1980 N
Austria	187	164	31681	32292	549	950	109159	156649
Finland	92	254	11172	13964	904	1869	54427	101155
FRG	2403	2733	108599	179740	13230	23691	1549694	2437824
Italy	215	1977	31884	32118	-	4303	564317	-
Sweden	261	394	18249	24668	1511	3427	290994	514130
United Kingdom	500	1201	41050	99572	8100	19695	1548000	2329239

In regards to homicide in Table 4.2., the differences between the years 1970 and 1980 are, in at least some of those countries indicating a steep increase, due to the fact that the recording practices have changed so that while previously, attempts were not included, in 1980 they were. Changes in other crime categories may be caused by similar or other changes in procedures.

However, despite the statistical and definitional differences, the over-all conclusion from tables 4.1. and 4.2. is that there has been an increase in recorded crime in the categories noted.

## 5. The clearance rate

The Second United Nations Survey contains a definition according to which clearance rates refer to the proportion of offences recorded in 1979 which have been attributed to suspected offenders by the police or another law enforcement agency. Such a definition is rather imprecise and therefore it may be misleading. For example, the time factor is not considered; often, the clearance rate is defined so that it refers to the number of offences reported and attributed to a suspect during the same year.

Another definition is that used by INTERPOL in its statistics, and that is the number of cases solved by the police as a percentage of the total number of cases known to the police. Here, however, there are issues related to the definition of solved (cf. section 6 on known suspects) and on the definition of cases known to the police.

The following table shows rates given by individual states in their answers to the Second United Nations Survey alongside rates provided to INTERPOL by its member countries. It can be seen that the data taken from the two sources for Austria, the Federal Republic of Germany, France, the Netherlands, Norway and Sweden is almost identical.

The greatest differences between states in clearance rates can be observed for robberies and thefts. For these offences Poland and Yugoslavia gave the highest clearance rates.

Cross-national variations in clearance rates should not be used as a measure of the relative efficiency of the police. These variations (even within individual states) generally reflect differences in the way in which offences coming to the attention of the police are recorded. A combination of intentional and unintentional procedures may lead to a situation where, instead of recording all known offences, the authorities record for example only certain types of cases or even only those offences which appear to be easy to solve and thus suitable for further action. Also, one can record offences either on the first notice of them or on the conclusion of the investigation.

In a number of offences, such as for example traffic offences, the offence is effectively cleared at the time it comes to the attention of the authorities. Also, in the case of offences against individuals, the reporting victim or bystander can often provide information on the identity of the suspect. Thus the structure of reported offences affects the clearance rate.

Table 5.1. The clearance rate for selected offences, 1979

Country	Intentional homicide		Assault		Robbery		Theft	
	rate % (A)	(B)	rate % (A)	(B)	rate % (A)	(B)	rate % (A)	(B)
Austria	95	(94,7)	91	(93,9)	49	(48,9)	28	(28,7)
Belgium	..	(85,4)	..	(76,4)	..	(24,4)	..	(15,1)
Cyprus	..	(100,0)	..	(80,4)	..	(11,1)	..	(38,6)
Czechoslovakia(1)	..	(..)	..	(..)	..	(..)	..	(..)
Denmark	90	(..)	86	(..)	53	(..)	23	(..)
England and Wales	..	(93,0)	..	(76,0)	..	(31,0)	..	(38,0)
Finland	96	(93,2)	92	(80,5)	55	(53,1)	32	(28,9)
France	81	(81,0)	78	(77,7)	22	(27,3)	18	(18,4)
FRG	95	(95,1)	89	(85,2)	52	(52,7)	29	(29,6)
Greece (2)	..	(..)	..	(..)	..	(..)	..	(..)
Ireland	91	(83,3)	92	(93,5)	40	(40,4)	29	(37,3)
Italy (2)	..	(..)	..	(..)	..	(..)	..	(..)
Netherlands	87(3)	(87,0)	74	(..)	33(4)	(33,0)	18	(18,0)
Northern Ireland(5)	45	(43,0)	86	(61,0)	26	(20,0)	21	(24,0)
Norway	97	(96,9)	59	(61,1)	27	(..)	18	(17,9)
Poland	91	(..)	90	(..)	96	(..)	81	(..)
Romania	..	(..)	..	(..)	..	(..)	..	(..)
Scotland	96	(95,7)	60	(59,8)	21	(22,1)	25	(26,0)
Spain (6)	65	(78,0)	54	(54,0)	19(4)	(19,0)	15	(30,0)
Sweden	55(6)	(55,0)	59	(62,0)	25	(25,0)	16	(16,0)
Yugoslavia	93	(..)	99	(..)	98	(..)	46	(..)

(A) = Second United Nations Survey

(B) = INTERPOL (International Crime Statistics, 1979-1980)

## Footnotes:

(1) not available. For all crimes recorded the rate is 86%

(2) not available

(3) in this category all crimes against life such as murder, manslaughter and non-intentional homicide are included. Ca. 90% of the crimes noted here are attempts.

(4) 1980 figure

(5) including murder or manslaughter, fatal assault and infanticide. This figure is calculated on the basis of those reported and cleared during the same year.

(6) the INTERPOL data are for 1980

## 6. Known suspects

Successful police investigations lead to the identification of a person (or persons) suspected of perpetrating the offence (or offences) in question. As already noted in the preceding section, in some offences, such as assault of a policeman, some traffic violations, and tax evasion, the perpetrator usually becomes known to the investigative authorities at the time the offence itself becomes known. In a number of other preliminary investigations a suspect becomes identified either on the basis of investigation and search, or by obtaining information from the persons victimized by the offence or witnessing the offence, or by the investigative skills of, or other means available to, the police itself.

The definition of suspect brings up a number of complicated issues. Although in simple criminal cases there are usually no special problems in the identification of a suspect, in complex investigations it may be the result of a long process. Having been informed of the commission of an offence, the police may start compiling a list of potential suspects; this list may expand or contract during the course of the investigation. Some of these potential suspects may not even know that they had been included in such a list. Some others may be interrogated as witnesses or persons who could possibly provide the police with some useful information on the circumstances or persons involved in the offence. Only a few of these persons will be finally notified in a formal way that a preliminary investigation is being conducted against them. The form of this notification and the authority issuing it differs from country to country. It is only the persons declared formally as suspects that are allocated the penal and procedural status of being a suspect.

From the point of view of the statistics, it should therefore be noted that the data on known suspects may range from all known suspects in some countries, those questioned by the police as suspects in other countries, to for example those actually arrested by the police in yet third countries.

Secondly, delimiting the category of suspects involves problems of a legal nature. The category may in some countries embrace only persons who could be convicted, and eventually subjected to a court order or a sentence. In other countries, it includes also persons considered by the law as *dolo incapax*, i.e. who cannot be charged or held responsible for their deeds. The most numerous group in such a category of possible suspects is that of children or juveniles under a certain age limit. Other categories include those persons unfit to plea because of insanity or shielded by diplomatic immunity. The above problem is solved in a variety of ways in the various States, and

consequently affects the scope and meaning of data on suspects included in national police statistics.

With the identification of suspects, there arises the possibility of two separate sets of statistics, one on the number of offences and one on the number of persons suspected or convicted of an offence. The importance of the data on suspects lies, on the one hand, in their use as the basis for the computation of the clearance rates, and, on the other hand, in their use in forming an initial pool of data on persons moving through the consecutive stages of criminal proceedings, to decisions of respective authorities.

## 7. The handling of suspects and cases before trial

Among the many kinds of decisions taken during the criminal proceedings which affect the persons suspected, charged and prosecuted for committing an offence, two categories are of considerable significance. One category is formed by the decisions affecting the persons before a decision is reached on their guilt; during this stage, the presumption of innocence speaks in their favour. The other category is formed by decisions which move the persons involved in criminal proceedings - as possible perpetrators of offences - from one stage of the proceedings to the next one, or transfer them to other systems, or have their cases finally closed.

The first category of decisions mentioned above is primarily connected with the measures applied in order to secure the proper conduct of the proceedings. One of the most important such measure is remanding in custody (pre-trial custody). This is often preceded by a period of detention by the police. In every European country the police are authorised to apprehend and take into custody a person whom they suspect of a serious crime or who was caught while committing an offence or in certain other circumstances (e.g. he was unable to identify himself to the satisfaction of the police). There are significant differences in respect to (a) the maximum length of custody without an order for the application of measures, and (b) the authority issuing such an order.

In some countries the length of time a person can be held in custody without a decision on remand can be up to 24, or 48 hours. In other countries the period can be much longer. By the end of this period the suspect has to be released or be remanded in custody by the order of an appropriate authority, such as the police, the public prosecutor, the investigative judge or the court. In some countries more than one of these authorities may be involved, e.g. the public prosecutor (at the stage of a preliminary investigation) and the court (in later stages of criminal

proceedings, or when an extension of remand in custody over a certain period is considered necessary). In general, the remanding in custody brings up a number of issues, many of them with a direct relevance to cross-national analysis. Examples of these include the legal grounds for remand, and the application of these in practice; the relative use of remand in comparison both to the number of suspects and to the use of other measures; the restrictions on the length of remand; the average length of remand before conviction, and after conviction but before the decision becomes legally valid; and finally, the possibility that the very fact that the accused had been remanded in custody increases the likelihood that he will be given a custodial sentence.

More recent data is available from several states of Europe on the proportion of remand prisoners out of all those held in prison. This is given in Table 7.1. It should be noted that the figures do not include those held by the police. Furthermore, the data is a cross-section, and does not indicate in any way the length of detention.

The second category of decisions mentioned above were described as ones changing the status of the suspect. Some of them are made in relation to offences, and they affect the suspect in the sense that certain charges against him are dropped or substituted for by others, often involving lesser penalties. Some other decisions affect the status of the suspect in a different, more profound way. In the first place, the criminal proceedings may be dropped entirely because it became clear that no offence had been committed or he was not the perpetrator, or that there is not sufficient evidence to charge him. Secondly, he may be reclassified as being not so much an offender as a person in need of some help (assistance) because of mental illness, drug addiction or alcohol dependence, in need of education, etc., and diverted from the criminal justice system to the medical, educational, social welfare or other systems. Thirdly, he may remain within the scope of the criminal justice system, but the proceedings in his case may be adjourned sine die; the prosecution may be postponed. At this stage, i.e. before conviction, some other dispositions may be ordered by the police or the public prosecutor. To the extent that these decisions can result in a termination of a criminal case, they will be dealt with in the next section.



Table 7.1. The proportion of remand prisoners out of the total prison population of selected European states, 1 February 1984. Source: Council of Europe Prison Information Bulletin no. 3, June 1984, and the Prison Administration Department of Finland. The figures generally do not include those held by the police.

State	Total prison population N	Proportion of remand prisoners %
Austria	8 516	23,8
Belgium	7 204	30,5
Cyprus	205	3,9
Denmark	3 430	25,7
England and Wales	41 310 (1)	18,4
Finland	5 008	10,4
France (2)	41 545	51,9
FRG	64 901	25,4
Greece	3 930	26,5
Ireland	1 669	7,8
Iceland	75	12,0
Italy	43 348	73,9
Luxembourg	285	41,4
Malta	103	43,7
the Netherlands (3)	4 500	42,2
Norway	1 996	25,6
Portugal (4)	6 820	40,1
Scotland	4 640	13,4
Spain	14 691	40,9
Sweden	4 742	40,9
Switzerland (5)	4 400	38,6
Turkey	76 258	40,8

Footnotes:

- (1) situation as of 31 December 1983.
- (2) Both metropolitan France (40 180) and overseas departments (1 365)
- (3) includes 240 persons detained on police premises due to lack of space in prisons. Includes only those physically present on the date indicated
- (4) situation as of 26 March 1984
- (5) estimate

## 8. Adjudication

### 8.1. General comments

The term adjudication refers here to the final decision taken by authorities in order to close a case and, in particular, to select the sanction to be imposed.

Criminal justice systems differ widely with respect to what sanctioning power they provide to the various law enforcement or judicial authorities. Moreover, a number of measures considered sanctions from the point of view of criminological or socio-legal analysis cannot be considered sanctions (penalties) in the legal sense of the term.

The decision ultimately ending the case, therefore, can come at any number of stages in the procedure, and the decisions range from cautions by the police to an imprisonment sentence by the court.

As noted in the introduction, in many countries police have expanded and very diversified options in ending a criminal case either formally or informally. They are also entitled to impose either administrative or penal law sanctions, depending on the character of the case. Besides police authorities in the strict sense of the word there may be many other executive bodies charged with controlling, correcting and sanctioning deviant behaviour prohibited by penal law in general or by particular penal acts or by quasi-penal regulations. Examples of such authorities in various countries are the tax authorities, labour law authorities, industrial security commissions, customs offices or border police forces, water police forces and so on.

For example in Belgium, France and the Netherlands, the concept of the transaction has been adopted as an alternative to formal criminal justice procedure. This transaction is legally considered to be a kind of civil law contract between the offender and the state authority in question. In fact the procedure implies that the person apprehended agrees to pay a certain amount of money either to the state or to the account of charitable organisations. Transactions are said to be heavily used in practice primarily with regard to traffic offences and a few white-collar transgressions or even misdemeanors.

The extent to which for example police authorities may ultimately conclude the case by ordering a sanction is generally considered to be limited in countries relying upon the so-called legality principle. However, even these countries have in fact developed solutions which can be considered, in criminological terms, to have much the same function.

For example in the Federal Republic of Germany, where the police are obliged to send all their cases to the prosecutor's office, a considerable change took place during the early 1970s inter alia with regard to minor traffic offences. Those offences were formally decriminalized. From then on they are to be handled as so-called Ordnungswidrigkeiten, i.e. administrative transgressions, without any formal penal character. By doing so the criminal justice system in the Federal Republic was relieved of a severe burden of cases and, by the same token, the additional options were gained of allowing administrative agencies to finally decide upon relevant cases. In practice this means that police officers are entitled to issue traffic offenders a formal warning with or without a ticket. The ticket, called a "Verwarnungsgeld", may go up to 40 DM. However, all cases that are not fairly trivial are to be transferred to the (administrative) traffic authorities. These authorities then have the right to impose stiffer sanctions of up to 500 or even 1 000 DM, or revoke the driver's license for from one to three months. Typical cases are driving through a red light, driving carelessly or recklessly, driving under the influence of alcohol (up to 0.8 per thousand parts alcohol in blood), speeding (more than 20 km/h over the limit) and the like. Even if the case is appealed against and has then to be transferred to the local criminal court it formally remains an administrative case.

Also Sweden and Finland, despite the theoretical rigidity of the legality principle in these countries, have adopted a system where the policeman can close the case by ordering the payment of a summary fine for certain petty offences. Also in these cases the suspect has the option of bringing the case to court.

A consequence of the above is that, in cross-national analysis of the statistics on measures undertaken by the police, careful attention must be paid to the scope of measures as well as to the scope of offences reflected in the statistics in each of the countries concerned.

Although an analysis of the passing of the case from the police to the prosecutor is in theory fairly straightforward, it is complicated by the dual role that the police have in some states. The chiefs of police districts in Finland also serve as public prosecutors; only in the cities is there a separate office of the prosecutor. Similarly, in England and Wales the prosecutorial function is fulfilled by the different police forces. In the case of capital crimes and the like, in England and Wales there is the office of the so-called director of public prosecutions who acts in the individual case. However, a proposal has been made in England and Wales for the establishment of a separate prosecutorial body, as part of the judiciary.

Once the case has come from the police to the prosecutor, the latter generally has considerably more expanded options for the final decision, especially in countries where the system is guided by the opportunity principle. These options include the waiving of prosecution entirely, either with or without the imposing of conditions. Another possibility in Belgium, France and the Netherlands is the transactions already referred to above.

In for example Sweden, prosecutors have the option of using summary fines. The prosecutor may and will impose such a summary fine in all events where the case is not complicated, where there is a heightened public interest and where the defendant's guilt is rather evident - and where measures in general will not be waived. Such fines are used in traffic crime cases and also in some minor offences against the individual.

Another example of an option available to the prosecutor is that since 1975, the Federal Republic of Germany has adopted a system whereby the prosecutor is permitted, despite the legality principle, to formally dismiss the case after having imposed a condition on the defendant. Among such conditions are financial obligations which in extreme cases may even reach hundreds of thousands of Deutschmarks, the obligation to perform community service work or similar charitable tasks, and the obligation to provide maintenance payments to (dependant) illegitimate children. This option of dismissing the case on conditions is extensively used in practice for e.g. traffic offences.

Proceeding to the court function, it should be noted that, again, the statistics do not necessarily cover the same scope of measures or offences. Depending on the judicial system of the country in question, certain parts of the court's function may be delegated to lay courts or to individual mediators regarding either petty forms of crime or/and those crimes which arise out of personal relationships, such as neighbourhood conflicts ending in physical injury, and serious insults. Examples of the former are the comrades courts in Socialist countries (e.g. the so-called "Schiedskommissionen" and "Konfliktskommissionen" in the German Democratic Republic); an example of the latter solution is the institution of the "Schiedsmann" in the Federal Republic of Germany. In the roughly 50% of the cases in which the efforts of the "Schiedsmann" to settle the matter appear to fail, the victim has the possibility of formally charging the offender by acting as private prosecutor before the local criminal court.

Even in cases where the matter comes to court, in some countries the court will attempt to settle the matter more or less by bargaining with the parties concerned. This may take place either formally or through the development of functional alternatives. In either case, the matter will

again be reflected differently in the court statistics than would a formally adjudicated case.

After the opening of a trial, the available options are generally much more restricted than at the very beginning of the law-enforcement process. Even at this late stage, formal adjudication can often be avoided. This is of course possible in countries allowing officially for discretion. Also in countries stressing the legality principle, however, some specific exceptions to that principle have emerged. Again, the differences in the development of such alternatives in the various countries hinder any direct comparisons of court statistics.

The three main types of decisions judges may take in formal adjudication procedures are acquittal, dismissal and conviction. The number of total cases are not always published in court statistics. Several countries, instead, only provide data on convictions. Even here, caution must be exercised in cross-national analysis, as the statistical unit used may be decisions, convictions or convicted persons. Some states use more than just one unit.

As a general conclusion regarding adjudication in the case of offences involving adults, and regardless of the structure of the system under consideration in the various countries, it should be noted that almost always formal convictions only represent a rather small fraction of the huge amount of measures of formal social control. Thus, in particular it may be an incorrect approach, leading to grossly misleading results, to compare the police statistics with court statistics in order to ascertain what proportion of the apprehended offenders are convicted.

## 8.2. Issues with special relevance to juveniles

In almost all of the countries concerned, the range of formal and informal options of the decision-makers in the criminal justice system are greater in the case of juveniles. Such options may include a mere reprimand. For example in the United Kingdom, the police have the possibility of ending the procedure by formally requiring the young defendant to come to the police station where a more or less specially trained police officer gives him or her a warning or caution.

Especially with regard to the widely felt need to "educate" juveniles who are considered to be endangered or in need of child welfare, the general preference is to replace simple dismissals with dismissals combined with some kind of educational measure, which may be directions, orders, duties, training courses and the like. Such cases will rarely be noted in the criminal justice statistics.

Even more distorting effects in a cross-national analysis of figures on young persons proceeded against result from the relatively high age levels of criminal responsibility in some countries. For example, in Denmark, Finland and Sweden no one below 15 years of age can be dealt with through the criminal justice system. In Belgium, the age of penal responsibility was fixed at 18 years in general following the fundamental revision of juvenile law in the 1960s. Under certain circumstances the age limit might be lowered to 16 years. However, in all such countries, some data with relevance to the theme can be obtained by referring to juvenile welfare statistics.

In the Federal Republic of Germany there is diminished responsibility between the ages of 14 and 18 in that the prosecutor and the court alike are obliged by law to ascertain in every case whether or not the young person suspected of an offence had, at the time in question, the average capacity of discriminating between right and wrong, and also of acting upon that insight. At least for statistical purposes this legal prerequisite does not have any consequence. Even persons younger than 14 are counted as offenders in the police crime statistics. Sometimes boys of even six years of age might be included.

In countries with a relatively low age of criminal responsibility, such as in England and Wales where the relevant age is fixed at 10, the observation can be made that the first peak in the offence rate is reached among 14-year-olds. The rather small fraction of such youngsters that is not dealt through police sanctioning (caution, warning) will eventually be counted also in judicial statistics.

Differences of that kind, of course, make it a highly complicated endeavour to try to compare juvenile justice systems in quantitative terms.

Also in the case of juveniles, the European criminal justice systems differ considerably with respect to the issue of how far the prosecutor can act independently of a court in deciding on informal educational measures following a dismissal.

If the prosecutor should have decided to formally charge a juvenile with a crime the court, as the next step in the criminal proceedings, is not necessarily bound to follow that option. Even some systems adhering to the legality principle permit judges the right of either fully dismissing the case before trial or of moving over to an informal procedure, or to a simplified formal procedure leading to light measures.

As a general conclusion regarding adjudication in cases involving juveniles, it can be stated that in Europe, formal adjudication is more the exception than the rule.

### 8.3. Data on adjudication

The Second United Nations Survey did not include a question on the number of decisions involving a custodial sanction. Questions regarding capital punishment were included, but as these are dealt with in the reports of the Secretariat to the Seventh Congress (cf. the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, Venezuela, 25 August - 5 September 1980, and Capital Punishment. Working Paper proposal by the Secretariat, doc. A/CONF 1980/9) they will not be dealt with here.

The questions included in the Second United Nations Survey did not make it possible to ascertain how stable the long range trend in corrections was at the European level from 1975 to 1980. Also in regards to a cross-national analysis of custodial sanctions, the Second United Nations Survey included no relevant data. On this latter question, supplementary data has been used (cf. Table 8.2.).

Due to the considerable differences in definition and recording, an attempt to subtract the number of custodial sanctions from the total number of convictions noted in the responses to the Second United Nations Survey, and the use of the resulting figure as a rough estimate of the number of offenders sentenced to incarceration, proved to be futile. Among the exceptions are countries such as the Federal Republic of Germany and Yugoslavia. Thus, Table 8.1. below may in general only be used to gain a certain insight in the aggregate amount of the use of sanctions in different countries.

Concerning the nature of custodial sanctions, there are wide variations in the European countries. Some countries have adopted a unitary custodial sanction (such as Sweden), others use ordinary imprisonment in addition to imprisonment in the penitentiary ("Kerker" in Austria; "réclusion" in France). Some states also have a separate measure called juvenile imprisonment (for example the Federal Republic of Germany, Finland, Yugoslavia and Poland).

Also the definition of non-custodial sanctions varies. An analysis of the responses to the Second United Nations Survey showed that some of the respondents had difficulties in adapting the classification used in the Survey to the system in their country. Some of the options are noted in the footnotes to Table 8.2, which is adapted from a study issued by the Max-Planck-Institute.

In any event, and with consideration to the fact that many states do not include fines in the statistics on corrections, Tables 8.2. and 8.3. show that the fine is widely used throughout Europe. Also suspended sentences, with or without probation, are in very wide use.

Table 8.1. Number of non-custodial, custodial and total number of sanctions. 1980. Adult offenders only.

Country	Non-custodial sanctions	Custodial sanctions	Total
Belgium (1)	35470	..	..
Czechoslovakia	52334	35481	87815
England and Wales	308800	..	..
Finland	316766	..	..
France	148335	103639 (2)	632238 (2)
FRG	564301	35531 (3)	599832 (3)
Greece	32010	..	117147 (4)
Ireland	199180	..	..
Italy	68187	..	..
Netherlands	56593	..	..
Northern Ireland	4689	..	..
Norway (5)	2378	..	..
Poland	106983	..	..
Scotland	47780	..	..
Sweden	21166	12272	33438
Yugoslavia	77651	21214	98865

Footnotes:

- (1) 1978 data
- (2) calculation based upon figures given in the questionnaire for convicted persons. Sanctions for those persons convicted for so-called 5-clause contraventions are only included in the total (these are primarily fines)
- (3) compiled from national sources. The data refers to convicted persons
- (4) convicted persons
- (5) serious offences only.



Table 8.2. Custodial and non-custodial sanctions in selected European states. Rates per 100 000 in population. Source: Kriminologische Forschungsberichte aus dem Max-Planck Institut für ausländisches und internationales Strafrecht, Freiburg im Breisgau, Band 14, pp. 492-495. (Published as Dünkel, F. - Spiess, G.: Alternativen zur Freiheitsstrafe, Freiburg 1983)

Country and year	Convicted persons (1)	Custodial sanctions (2)	Probation and corresponding sanctions (3)	Fines
Austria (1980)	1114	125	153	766
Belgium (1976)	456	65	149	270
Denmark (1978)	463	119	112	182
England and Wales (1981)	4281 (4)	184	187 (5)	3626
France (1978)	822 (6)	167	- (7)	367
FRG (1981)	1219	74	136	893 (8)
Greece (1980)	1251	902	225	124
Hungary (1980)	560	130	148	239
Italy (1977)	193	91	- (9)	103
Netherlands (1980)	540	116 (10)	18	384
Norway (1981)	274	99 (11)	114	14
Poland (1981)	403 (12)	95 (13)	185	87
Portugal (1980)	144	113	- (14)	30
Spain (1977)	476 (15)	147	- (16)	325
Sweden (1981)	908 (17)	182	183 (18)	471
Switzerland (1980)	915	150	358	400

(footnotes on the following page)

## Footnotes to table 8.2.:

- (1) this is based on the most recent official data available in 1981, and to some extent on reports provided by different institutions. The data includes all persons convicted formally, including non-adults. The rates are calculated in accordance with the population figures for 1979, as provided by the United Nations Statistical Yearbook 1979/80, New York 1981
- (2) persons sentenced to imprisonment and comparable forms of deprivation of liberty
- (3) probation sentences and other community-based sanctions which include a threat of imprisonment under certain circumstances. E.g. conditional sentences, suspended prison sentences, "sursis", "sursis avec mise à l'épreuve", and "sursis probatoire"
- (4) indictable and summary offences. The rate for indictable offences only is 945 per 100 000
- (5) probation orders, supervision orders and suspended sentences. Cases of absolute and conditional discharge are not included
- (6) excluding convictions for contraventions
- (7) 133 985 cases of "sursis" and "sursis probatoire" were registered (rate = 250). Since this figure affects those for fines, the rates given here for custodial sanctions (167) and fines (367) are somewhat distorted
- (8) including financial "poenas" imposed on juveniles as part of a so-called correctional measure
- (9) the available data is uncertain. The rate calculated on the basis of these data is 82
- (10) including split-sentences, i.e. custodial sanctions where one part is served in prison and another pre-determined part in liberty under restrictive conditions (rate = 37)
- (11) including a few split-sentences, similar to those in footnote 10
- (12) excluding sanctions imposed by administrative authorities
- (13) including juveniles sentenced to the reformatory
- (14) 5 506 cases (rate = 56) were conditional sentences to imprisonment or fines. Since these figures are not separable, the rates given here for custodial sanctions (113) and for fines (30) should be considered distorted
- (15) including conviction by the lower local courts, which can sentence the offender only to a fine or imprisonment up to 30 days
- (16) no data available. The rates given here for custodial sanctions (147) and fines (325) might thus be distorted
- (17) excluding persons fined on the basis of a prosecutorial decision alone
- (18) including controlled liberty.

Table 8.3. Non-custodial sanctions of adult offenders by type of sanction. Total sanctions, 1980. (NB. The definitions of the sanctions vary considerably. See the text.)

Country	Probation	Suspended sentence	Fines	Community service	Limitation of liberty	Restitution	Other
Belgium (1)	2361	11963	15496	-	5650	-	-
Czechoslovakia	3334	21489	7595	-	78	-	19838 (2)
England and Wales	28800	31900	190200	19500	-	-	38400 (3)
Finland	-	14556	302210	-	-	-	-
France	17660	120215	229312 (6)	(4) -	-	-	10460 (5)
FRG	68878	1309	494114	-	-	-	-
Greece	-	21191	10437	-	-	-	382 (7)
Ireland	..	..	199180	..	..	..	..
Italy	..	..	68187	..	..	..	..
Netherlands	-	2608	53985	-	-	-	-
N. Ireland	587	929	1813	138	57	..	1165 (8)
Norway	1926	75	346	-	..	..	31 (9)
Poland	-	58052 (10)	21551	11345	16035	-	-
Scotland	1779	-	31427	230	3	-	14341 (11)
Sweden	4648	5962	..	..	..	..	10556 (12)
Yugoslavia	-	38346	36964	-	-	-	2341 (13)

Footnotes:

(1) 1978 data

(2) reformatory measure

(3) absolute or conditional discharge, or otherwise dealt with

(4) not including fines for 5th class contraventions

(continued on bottom of following page)

Community service orders are a relatively new concept, originally developed in England. The modern concept of "limitation of liberty", a community-based sanction in which certain rights of the offender are restricted, appears to be primarily used in Poland (Table 8.3.).

## 9. Corrections

### 9.1. The execution of sentences and decisions

Despite the considerable amount of research, and the precision of the court statistics in many countries, our knowledge of how the sentences of the courts and the decisions of other authorities with adjudicatory functions are actually executed is very limited. For example, it is generally not possible to compare the court statistics and the prison statistics to determine exactly how many of those persons who are sentenced to imprisonment actually serve the sentence, in full or in part. There is even less information available on e.g. how many of those who are given a conditional sentence actually fulfill the conditions, and what the consequences of a breach of these conditions may be. Yet another example of the gap in data is that published data are rarely available on how many of those ordered to pay fines actually do so.

One of the main reasons for this gap in the data is that the preparation of such data would call for follow-up studies of a considerable number of individual cases - a laborious undertaking lying outside of the daily routines of the executive authorities. Undoubtedly the introduction of computerized systems will greatly facilitate the possibilities of obtaining more systematic information on such essential questions.

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#### footnotes to Table 8.3. (continued)

- (5) discharge
- (6) persons who have been admonished while the fine has been reserved (FRG)
- (7) deprivation of political rights; withdrawal of professional licence
- (8) conditional discharge; attendance centre
- (9) prosecution suspended
- (10) includes 22 374 cases in which the offender was placed on probation
- (11) hospital order and determination of insanity; absolute discharge; admonishment/caution; remitted to childrens hearings, custodial sentence
- (12) waiver of prosecution, or commitment to special care
- (13) judicial reprimand; surveillance; correctional institutions; found guilty but punishment waived.

The Second United Nations Survey contained only a few limited questions on the execution of sentences and decisions. As has been described in section 8, the Survey did, however, request information on the decisions and sentences of the courts and corresponding authorities, although unfortunately the data provided by the states, to a considerable extent, lacked comparability. Furthermore, the data on the execution of sentences given in response to the Survey is limited to only one type of sanction, imprisonment. As a consequence of this, the following description will have to be restricted to this sanction.

As has just been noted, it is a complicated undertaking to follow up on the outcome of the sentences and decisions in criminal matters within a particular country. Any cross-national analysis of this is even more complicated due to the immense variation in the possible sanctions. In such studies it is necessary to simplify the analysis, focusing on the essential characteristics of the sanctions. This can be done by grouping the sanctions into main types, according to how the sanctions affect the offender. An example of such a classification is the following: (1) sanctions leading to incarceration, (2) sanctions leading to some kind of restrictions of liberty without the use of incarceration (e.g. conditional sentence with supervision), (3) sanctions involving a warning or admonition (e.g. conditional sentence, waiving of prosecution), and (4) fines.

## 9.2. Measuring the use of criminal sanctions involving incarceration

Different indicators are available in any cross-national analysis of the use of incarceration. The choice of the indicator of necessity depends on the focus.

The most commonly used indicator is the daily average number of persons incarcerated. The figure may either be computed as per a specific date or as an average per day for an entire year. In principle the latter figure is the more reliable, since the former may be influenced by seasonal variations (e.g. there are generally fewer persons in prison during the summer). Daily averages are of special importance for the prison authorities in planning for the number of inmates to be admitted into the prisons.

However, cross-section figures may be misleading for comparisons between prison systems since they greatly overestimate the number of convicts with long sentences. The following simple example will show the problem. Let us assume that we have two countries, both with a daily average number of 200 prisoners. This may mean that the first country has 180 inmates with long sentences of more than a year and an additional 20 prisoners serving sentences of one month. In the other country it may well be that the

prisons have 10 convicts serving long sentences and no less than 2 280 convicts serving one month each. Hidden behind the same daily average, we find in the first country 420 prisoners and in the other 2 290 prisoners.

In connection with such a cross-section analysis, special difficulties arise in cases where the offender is sentenced to a term equal to the time he has already spent in remand while waiting for trial; as the length of remand imprisonment may be very long in some countries (cf. below, section 9.3.); such sentences are not reflected in the figures for prisoners serving a sentence.

Another indicator of the use of incarceration is the number of prisoners admitted to prisons and the number leaving prisons during a year. These figures give a picture of the flow of the number of incarcerated persons, but since they do not necessarily refer to the same individuals they are of limited value unless they are combined with other information. A useful indicator would be the number of persons admitted to prisons, with additional information on the length of the sentence. However, since many prisoners do not serve the total time meted out by the courts (for example due to early release on probation/parole or amnesty) not even this information is sufficient to describe the use of imprisonment accurately.

A more exact indicator of the use of incarceration is undoubtedly the number of prisoners leaving the prisons during a year, with supplementary information on how long a period they have actually been incarcerated from the day of apprehension, both before trial and after the sentencing. Only this indicator will give us exact information on how a country actually uses incarceration. Unfortunately, with the partial exception of Finland, apparently no criminal justice system in the European region has information of this type.

### 9.3. The size of the prison population

The main information from the Second United Nations Survey which concerns the use of incarceration is presented in Table 9.1. The table gives the average daily population of the prisons in 16 countries in the European region. In a number of cases, the prison population figure provided is not the annual average, but the number of prisoners held on a given day.

A comparison of the figures for the number of inmates per 100 000 inhabitants of the countries represented shows a very high variation, ranging from 27.4 in the Netherlands to 269 in Poland.

Table 9.1. Average prison population, 1980. (NB. The figures pertain primarily to the situation on a particular day. There may be fluctuations within the prison population over the year.)

Country	Prison popu- lation N	Rate per 100 000 total popul.	Sen- tenced per 100 000 popul.	Propor- tion of remand %	Propor- tion of women %	Juveniles pro- por- tion %	age defin.
Belgium	5797	58.8	43.5	26	2	0.2	16-17
Czechos- lovakia	..	..	232.1	..	..	..	15-17
Denmark	3439	67.1	48.3	28	4	..	15-17
Finland	5032	105.3	93.7	11	3	8 <sup>(1)</sup>	15-20
France	45655	85.0	55.2	35	3 (2)	2	13-17
FRG	58053	94.3	70.7	25	4	12	14-20
Greece	3135	32.7	25.8	21	4	5	12-20
Ireland	1214	36.7	33.8	8	2	33	7-14
Italy	31765	56.6	19.2	66	5	3	14-18
Netherlands	3873	27.4	17.3	37	3	3	12-18
Norway	1797	44.0	34.3	22	3	..	14-20
Poland	95696	269.0	226.0	16	4	11	17-21
Spain	18263	48.8	22.0	55	3	20	16-20
Sweden	4795	57.7	49.0	15	4	..	15-17
United Kingdom:	49451	88.4	79.6	10	3	..	-
-England and Wales	42109	..	..	9	3	30	14-20
-Scotland	4796	..	..	12	3	..	16-20
-N. Ireland	2546	..	..	14	3	6	10-17
Yugoslavia	..	..	74.2	..	5	6	14-20

Footnotes:

(1) excluding juveniles awaiting trial

(2) 1979 data (1980: 24%)

The differences can be attributed inter alia to the following factors:

- There may be differences in crime rates and detection rates for those types of offences which more often are punished with imprisonment.
- There may be differences in the crime control policy.
- There may be differences in the use of incarceration before trial.
- The countries with low averages may incarcerate offenders outside of the prison system.
- The countries with low rates may use different book-keeping procedures.

On the basis of a comparison of the four countries with the lowest rates (the Netherlands, Greece, Ireland and Norway) with the four countries with the highest rates (Poland, Finland, the Federal Republic of Germany and the United Kingdom), no clear indications surface from the responses that would allow the assumption that the crime rate for those traditional crimes which usually make up the greatest number of prisoners (theft and robbery) are higher in the countries with the highest daily average. For example, Norway and the Netherlands report similar theft rates as the Federal Republic of Germany and Finland. It should be noted, however, that the latter two have a higher clearance rate of offences than the first two, which may be a partial explanation of the differences. The differences can also not be explained by different use of remand in prison before trial, since the large differences still exist when the number of these inmates are deducted - something which can be seen from the second column of the table.

There is no available information to prove or disprove the hypothesis that the low-rate countries use incarceration outside of the prison system (such as in institutions for the abusers of intoxicants, juvenile institutions and mental hospitals). However, if this is the case, one might assume that the countries in question would have noted this in answering the Survey. The same ought to be true concerning the idea that the differences are due to faulty statistics and bookkeeping. Such assumptions, of course, cannot be borne out solely on the basis of the Survey data.

Even so, it would seem reasonable to assume that the differences are real and that they are due to differences in crime control policy. However, due to the limitations of the daily average as an indicator of the use of incarceration in general, no conclusion can be reached on whether the differences are a result of crime control policies which differ concerning the length of the imprisonment for each offender or if they are a result of differences in the number of offenders sent to prison. It is possible that in the countries with high daily averages the large number of prisoners consists of offenders with short sentences - offenders who in the low average countries are given sanc-



tions not involving incarceration. It is equally possible that the countries with high averages are keeping a relatively small group of offenders in prison for years while at the same time the low average countries use sentences which only run into months.

A further issue emerging from the table merits special attention: the differences in the percentage of suspects remanded before trial. Some countries have more than half of their daily prison population in this category (Italy and Spain) or more than one-third (France and Netherlands), while others have 15 % or less (Finland, Ireland, Sweden and United Kingdom).

The information on the use of incarceration given in response to the Second United Nations Survey is similar to that reported in the Council of Europe Bulletin on Prisons, covering the member states of the Council. On the basis of these two sets of data, there would appear to be two distinct trends. Generally, at least in the long run, the courts appear to be moving away from the use of custodial sanctions. In recent years, however, the tendency in several countries points to the use of more severe sanctions for certain groups of offenders, such as those who persistently commit crimes such as robbery, burglary and drug offences. Many countries have experienced modest, some even severe prison overcrowding; this may be interpreted as a result of such increased severity. Whether or not this tendency will continue and whether or not it will have any influence upon the crimes in question remains to be seen.

## 10. Resources

### 10.1. General comments

Three subjects are of interest in this context: 1) the number and proportion of part-time and full-time personnel engaged in crime prevention and control, 2) the size and proportion of the funds allocated to crime prevention and control, and 3) the question of technology.

As a consequence of the quality and nature of the data on these subjects in the Survey, fairly rough and, to some extent, inconsequential information emerges. There is a great risk of misinterpreting the results of the analysis. A preliminary analysis is possible of some of the main features emanating from the materials. It should also be noted that the United Nations Secretariat will produce a parallel report on the results of the Survey, dealing with information related to crime prevention strategies and the recruitment and training of criminal justice personnel. Thus, in order to avoid duplication of work, this side of criminal policy activities is not dealt with in the present report.

The main focus will be on the economic and manpower resources invested in crime prevention and control. The question of part-time and full-time personnel engaged in crime prevention, as well as the question of technology, are dealt with only in brief, due to the limited amount of data available.

It is recognized that the question of resources is a difficult one to deal with, in particular due to the fact that much conceptual clarification needs to be done before work can be undertaken on the gathering and analysis of good quality data. For example, any analysis of the economic and manpower resources assigned to policing must consider the extent to which this work is done by those not officially denoted as police (e.g. private enterprises, revenue authorities, volunteers), and the extent to which the police themselves have duties not directly related to crime prevention and control (e.g. administration, traffic supervision). No matter what the measure, it is obvious that we are a long way from being able to say how heavy the cost of crime prevention and control is.

## 10.2. Economic and manpower resources

First, the size of the economic resources allocated to crime prevention and control is tabulated country-by-country as such, and as a proportion of the gross national product in 1980 (except for the Netherlands and United Kingdom, for which the year 1977 is used) (Table 10.1.).

Table 10.1. Economic resources allocated to criminal justice, in dollars and as a proportion of the gross national product, 1980. (NB. footnotes on following page)

Country	Resources (in 1000 million US dollars)	GNP (in 1000 million US dollars)	Resources/ GNP (%)
Belgium (1)	0.112	109.9	0.1
Cyprus	0.037	2.1	1.8
Denmark (2)	0.327	60.6	0.5
Finland	0.295	47.6	0.6
FRG (3)	3.355	761.6	0.4
Greece (4)	0.097	38.0	0.3
Ireland (5)	0.273	16.2	1.7
Italy (6)	0.425	364.5	0.1
The Netherlands	1.268	114.8	1.1
Norway	0.300	52.9	0.6
Sweden	1.399	125.0	1.1
United Kingdom (7)	2.958	267.9	1.1

It is especially in connection with Table 10.1. that caution should be exercised: not only is the analysis confused by conceptual ambiguity, internationally analysis is made more difficult by the differences in accounting and counting procedures (cf. Costs of Criminal Justice. IMPACT no. 2/1984, Solicitor General of Canada).

The incompleteness of data, as the footnotes indicate, allows only the general observation that the percentage of GNP spent in European countries on the administration of justice should certainly be counted in single figures and most probably does not exceed 2 - 3 %.

In respect of manpower resources, a measure of the balance between the different sectors participating in crime prevention, however rough, is the number of prosecutors and judges per 1000 policemen (Table 10.2).

Table 10.2. Number of prosecutors, judges and policemen, 1980.

Country	Prosecutors and judges (N)	Policemen (N)
Cyprus	63	3 368
Denmark	592	11 312
Finland	961	11 101
FRG (1)	50 765	191 420
Ireland	74	9 882
Netherlands	552	26 902
Norway	617	5 491
Sweden	1 813	20 215
United Kingdom (2)	28 631	196 097

Footnotes to Table 10.2:

- (1) includes 29 783 lay assessors
- (2) includes lay magistrates

Footnotes to Table 10.1:

- (1) prisons only
- (2) police and prosecution only
- (3) excluding police
- (4) budget of the Ministry of Justice, including courts and prisons, excluding police and prosecution
- (5) excluding prosecution
- (6) prisons only
- (7) excluding police and prisons in Scotland, and prosecution in Scotland, England & Wales.

Here it is very important to notice that the basic data delivered by the countries has been accepted at face value, without attempting a correction of the figures to assist comparability. These figures may show a broad range of statistical proportions between prosecutors/judges and policemen. In no way should the presentation of the figures in the table be regarded as an implication of any value judgements as to the appropriateness of the allocation of financial resources to justice administration, especially in view of the fact that the presented figures are composed of different subcategories of data (e.g. in the United Kingdom the figures cover both judges and magistrates, and in the Federal Republic of Germany judges and lay assessors).

Even countries with a relatively high degree of cultural homogeneity, such as the Scandinavian countries, differ considerably among themselves in this regard. In Norway there are 112 prosecutors and judges to 1000 policemen, in Sweden 90, in Finland 87 and in Denmark only 52; this last ratio is thus twice as low as in Norway. Consequently, such differences should rather serve as points of departure for looking for possible internal relationships between resources spent on criminal justice personnel and proportional levels of recorded, processed and adjudicated crime, including the efficiency and speed of work of the respective criminal justice components.

Two further indicators of the allocation of the manpower resources are the number of policemen per 100 000 in population (Table 10.3) and the number of prison staff per 100 000 in population (Table 10.4).

Table 10.3. The number of policemen, in absolute numbers and in proportion to the population, 1980.

Country	Policemen N	Population, in 100 000	Policemen/ 100 000 in population
Austria	27 159	75.46	359.9
Cyprus	3 368	6.20	59.4
Denmark	11 312	51.23	220.8
Finland	11 101	47.79	232.2
FRG	191 420	615.61	310.9
Ireland	9 882	33.07	298.8
Italy	74 481	561.59	132.6
Netherlands	26 902	141.44	190.2
Norway	5 491	40.86	134.4
Sweden	20 215	83.11	243.2
United Kingdom	196 097	559.44	350.5

The indicators in Table 10.3. could be fully read only in connection with data on the proportion of time spent by police in crime control duties, traffic control and time allocated to community services and, naturally, office administration. The changing roles of the police may entail that in some countries more and more police resources and time will be allocated to community services. Some of the data, then, may confirm this expansion. Some countries, for example Norway, have reported the number of policemen excluding not only administrative staff but also senior staff with supervisory duties, while other countries have reported the strength of the entire police corps.

Table 10.4, when compared with Table 10.3, shows that the rate of prison staff to population is consistently and significantly lower than that of the police to population.

Table 10.4. The size of the prison staff, in absolute numbers and in proportion to the total population of the country, 1980.

Country	Prison staff N	Prison staff/ 100 000 in population
Belgium	3 596	36.5
Cyprus	177	28.5
Denmark	3 143	61.4
Finland	2 354	49.3
France	13 513	25.2
FRG	23 627	38.4
Greece	1 331	13.9
Ireland	1 516	45.8
Italy	19 700	35.1
Netherlands	4 252	30.1
Norway	1 313	32.1
Spain	4 695	12.5
Sweden	5 291	63.7
United Kingdom	26 987	48.2

The ratio of the prison staff to 100 000 in population is supplemented in Table 10.5 by data on the size of the different subgroups within the prison staff. The considerable differences in the proportional size of the various subgroups again points more to differences in classification than to actual differences in interest in, for example, the treatment of prisoners. Even so, Table 10.5 clearly shows the dominant role of custodial staff in prisons.

Table 10.5. The allocation of prison staff, by duties, 1980.

Country	Management		Custodial		Treatment		Others	
	N	%	N	%	N	%	N	%
Belgium	81	2	2 919	81	209	6	387	11
Cyprus	10	6	149	84	11	6	7	4
Denmark	454	14	2 430	77	259	8	-	-
Finland	147	6	1 661	71	184	8	362	15
France	587	4	10 766	80	1 081	8	1 079	8
FRG	3 069	13	17 042	72	1 493	6	2 023	9
Greece	151	11	1 071	80	73	5	36	3
Ireland	30	2	1 269	84	42	3	175	12
Italy	250	1	17 617	89	852	4	981	5
Netherlands	143	3	2 542	60	916	22	651	15
Norway	..	..	890	68	..	..	..	..
Spain	1 349	29	2 828	60	155	3	363	8
Sweden	387	7	3 292	62	774	15	838	16
United Kingdom	1 831	7	21 778	81	2 550	9	828	3

According to Table 10.5, the Netherlands and Sweden devote considerable attention to treatment. The table might be used as a basis for discussions on the possibility that the treatment of prisoners, that is, their preparation for a successful re-adaptation to society, is the area where more and more staff and resources could be diverted or reallocated within already existing resources.

To round off the survey on manpower resources, one more table, on the number of prison staff per average prison population, is presented in Table 10.6.

In most countries providing this data, it would appear that there are about two inmates to each member of the prison staff. Notable exceptions are the Netherlands, Sweden and Ireland, where the prison staff outnumber the inmates.

Table 10.6. The size of the prison staff, in absolute numbers and in proportion to the size of the average prison population, 1980.

Country	Prison staff N	Average pris- on population N	Prison staff/ prison popu- lation
Belgium	3 596	5 797	0.62
Denmark	3 143	3 439	0.91
Finland	2 354	5 032	0.47
France	13 513	45 655	0.30
FRG	23 627	58 053	0.41
Greece	1 331	3 135	0.42
Ireland	1 516	1 214	1.33
Italy	19 700	31 765	0.62
Netherlands	4 252	3 873	1.10
Norway	1 313	1 797	0.73
Spain	4 695	18 263	0.26
Sweden	5 291	4 795	1.10
United Kingdom	26 987	49 451	0.55

## 10.2. Technological developments

Although the employment of technological developments has a clear connection with the question of resource allocation to and within the criminal justice field, no single question in the Second United Nations Survey dealt precisely with this issue. One potential source of information could be the annual figures of manpower engaged in crime prevention and control, and especially changes in the figures in different subgroups (policemen, prison staff) from one year to another, provided the data were supplemented by a more detailed question on the influence of technology on the changes. There has been a clear increase in the number of policemen during the last couple of decades in most of the European countries, despite the introduction of constantly more sophisticated new technology.

#### **IV. The criminal justice profiles**



## AUSTRIA

### I. Background

The main features of the Austrian criminal justice system have developed since the beginning of the 1800s. The Penal Code of 1974 is not a thorough reform of the Penal Code of 1852, but instead remains partly based on this old code. The 1873 code of criminal procedure has been repeatedly revised, and the most recent Code is from 1975. Two further major and some minor amendments were introduced after 1975. Other legislation which decisively influences the structure and operation of the Austrian criminal justice system include the Court Organization Act.

The police have the duty to investigate such matters as suffer no postponement, to secure the traces of the criminal act and to prevent the escape of the perpetrator. Should the police order the search of a dwelling or detain a person, they must immediately (within 48 hours at the latest) refer the matter to the competent court.

The results of the police investigation are passed on to the public prosecutor who can abandon prosecution if no criminal act was committed. He can also pass the case on to the court for preliminary investigation. The public prosecutor does not himself carry out investigations. He is bound by the legality principle except in cases where the act is subject to private charge.

The public prosecutor either files the charge right away, or passes the matter on to the court for preliminary investigation. If the investigating judge accepts the case, the judge carries out the preliminary investigation. The defence counsel may be present during the investigation, and he has the right to inspect the files. However, he may not be present at the investigation carried out by the police.

The courts of first instance are either the local courts for less serious offences ("Bezirksgerichte") or the circuit courts ("Gerichtshof I. Instanz"). The courts sit either in panels consisting of a judge and jury or two judges and lay assessors. All minor offences can be dealt with by the judge sitting alone.

The minimum age of criminal responsibility is 14. Minors below 18 are dealt with in accordance with a special law.

### II. Statistics

#### II.1. Selected offences

Intentional homicide. 164 cases of intentional homicide were recorded during 1980; this number shows an 18% decrease since 1975. The clearance rate was reported as 95%.

Assault. 32 292 assaults were recorded during 1980; this is some 14 % over the figure reported for 1975. The clearance rate was reported as 91%.

Robbery. 950 robberies were recorded in 1980; the figure is 15 % over the figure reported for 1975. The clearance rate was reported as 49%.

Theft. 156 649 thefts were reported in 1980. The data do not indicate whether or not petty thefts have been included. The number is some 15 % above the figure reported for 1975. The clearance rate was reported as 28 %.

Comparing the data of the Second Survey, covering 1975 to 1980, with that of the First United Nations Survey covering 1970 to 1975, the average rate of change over an eleven year period can be calculated for the above offences:

- for intentional homicide -1,7%; the trend is stable;
- for assault -2,2%; the trend is stable;
- for robbery +58,7%; the trend is increasing;
- for theft +24,9%; the trend is increasing.

No data is provided on persons convicted for the above offences.

The Austrian Penal Code of 1974 includes several amendments, both in regard to the definitions of offences and the classifications of offences. Therefore any direct comparison of statistical data for the years prior to 1974 with data compiled after 1974 would be misleading, and the figures should be interpreted with caution.

## II.2. Sanctions

The response to the Second United Nations Survey does not include data on sanctions, and therefore information on the prison population was taken from the Working Paper prepared by the United Nations Secretariat for the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1975 (A/Conf. 56/6) and from the Prison Information Bulletin prepared by the Council of Europe (No. 2/1983).

	1972	1974	1983
Total prison population	8 093	7 784	8 748
Rate per 100 000 inhabitants	109	104	114
Percentage of unsentenced prisoners	26,8	28,6	25,9

## II.3. Personnel and resources

For 1980 Austria reports a total of 27 159 police personnel, of whom 23 575 are policemen.

No other data on personnel and resources is provided in the response.

## BELGIUM

### I. Background

The criminal justice system of Belgium has been influenced not only by native development but also by concepts coming from France. Belgium was part of France from 1794 to 1814. It was united with the Netherlands from 1814 to 1830 and proclaimed its own new Constitution in 1831. The basis for the criminal law of independent Belgium was originally the French Penal Code of 1810 with revisions from 1814 and 1815. The new Penal Code stems from 1867. A separate Military Penal Code was adopted in 1870.

Among the different police forces of Belgium, the criminal police have the principal duty of investigating criminal offences. The criminal police agencies belong to the Ministry of Justice and operate under the supervision of the prosecutorial authorities ("Parquet").

The prosecutor has the options of either dismissing the case (due to lack of evidence or on the basis of the opportunity principle) or of offering the offender a so-called transaction before a Police Tribunal Court (see section 8.1. of the first part of this report). The transaction is primarily used in petty traffic violation cases where the defendant is asked to accept a "poena" or fixed summary fine. The prosecutor has the alternative of charging the person with an offence.

Belgium has a rather elaborate system of sanctions, divided into so-called police matters, correctional matters and, in the case of more severe offences (felonies), criminal matters proper. For about 30 years, sentences of imprisonment of up to 3 months have not been enforced in practice, as a rule. The same is true for longer split-sentences if the part remaining to be served in prison does not exceed three months. There are different ways of commuting these sentences. However, this general rule of not enforcing short sentences of imprisonment has its exceptions, when called for by the need for guaranteeing public order. In these cases the offender is ordered to serve weekend-detention for up to one month or to serve semi-detention for up to six months.

The minimum age of criminal responsibility is 18 years in general. This limit may be lowered to 16 years in particular cases, however. All persons below 16 (18) years of age are dealt with outside the criminal justice system when apprehended for an offence or when they are otherwise regarded as behaving in a deviant manner.

## II. Statistics

### II.1. Selected offences

The response to the Second United Nations Survey does not include any statistical data on the number of reported offences. The latest data on the number of convictions is from 1978, when 39 persons were convicted for intentional homicide, 4 429 were convicted for assault, 8 were convicted for robbery and 5 722 were convicted for theft. During 1978, a total of 19 078 persons were convicted for penal code offences or the equivalent.

### II.2. Sanctions

Data on persons convicted is provided in the "Bulletin de condamnations". This data pertains only to penal code offences. The latest figures are reported for 1978, when 19 078 offenders of 16 years or more were convicted.

In respect of the offences dealt with in correctional courts, in other words handled as correctional matters, the latest data is from 1980. Again, this data only pertains to the general Penal Code. During 1980, a total of 35 474 noncustodial sanctions were used, including 15 496 fines, 11 963 suspended sentences ("sursis"), 2 365 probation orders ("sursis probatoire") and 5 650 sentences of limitation of liberty.

No data is available on the length of imprisonment sentences on conviction. In respect of the actual prison population, a cross-section as of 31 December 1980 provides the following data. 399 prisoners were reported to be serving sentences below 6 months, 250 from 6 months up to 12 months, 1 062 from more than one year up to 5 years and 358 for more than five years. In addition, 73 prisoners were serving a life sentence.

The total prison population is reported as of 31 December 1980. At that time, there were 5 750 persons incarcerated; 47 of these were between 16 and 18 years, and 5 703 were 18 or more. Of the 5 703 adults, 2 400 were serving a sentence, 1 521 were in remand prison, and 1 829 were serving e.g. an internment measure for abnormal offenders or another measure, such as being incarcerated "at the Government's pleasure" for vagrancy.

Belgium reports a total of 35 prisons. The capacity of these is as follows: 12 were for less than 100 persons, 11 were for 100 up to 199 persons, 10 were for 200 up to 499 persons, and one was for a population in excess of 500 persons.

### II.3. Personnel and resources

In respect of the personnel in crime control duties in 1980, only data on prison personnel is reported.

The prison system had a staff of 3 596, of whom 81 were reported as being engaged in management, 2 919 in custodial, 209 in treatment and 387 in other duties.

Also in regards to the resources allocated to the various criminal justice agencies in 1980 only data pertaining to prisons and, in addition, to the after-care of prisoners are available. These are reported as follows:

prisons	112 000 000 USD
aftercare	950 000

(1980 mid-point rate: 31,523 FB = 1 USD)

### III. Selected issues

Pre-trial detention. In Belgium those persons who have been arrested and who have not had their case finally disposed of may be incarcerated in special remand units called "maisons d'arrêt". These persons include those who have been convicted, but for whom the decision is not yet legally valid; those who have been charged with an offence and are still awaiting trial; and those who have been remanded in custody for the duration of the criminal investigation or of an examination which may lead to an internment measure. The total of persons detained in this way in 1980 is reported as 8 193.

The average time spent in the "arrest houses" between arrest and the final disposition of the case is estimated to have been 8,02 weeks in 1980. The average figures for suspects for selected offences include 17,9 weeks for homicide, 7 weeks for assault, and 8,5 weeks for theft (including theft with violence).

Recidivism. There is no data available on recidivism after conviction or after release from prisons. For 1978, however, figures are available on the 19 078 persons convicted during the year for a Penal Code offence who have had one or more prior convictions. Of all these 19 078 persons convicted, 48,5 % had previous convictions. Furthermore, 56,4% of those convicted for homicide, 45,9% of those convicted for assault, 62,5% of those convicted for qualified theft with violence and 48,6% of those convicted for theft had previous convictions.

## CYPRUS

### I. Background

The minimum age of criminal responsibility in Cyprus is 12 years. The age of adult responsibility for crime is 16 years.

Cyprus did not respond to the question on the guiding principle in prosecution. However, the response did note that discretion is exercised by the Attorney General on the grounds of public interest.

Prosecutors have no criminal investigative duties. They are specially selected members of the force, well qualified in law. They attend a six-week prosecuting officers course, and undergo practice attending court sessions.

District judges are appointed from qualified lawyers with at least seven years practice or with a unanimous recommendation of the Supreme Court from qualified lawyers with at least five years practice and of high moral standard.

### II. Statistics

#### II.1. Selected offences

Intentional homicide. There were 12 cases of intentional homicide reported during 1980; the number has ranged between 6 and 13 since 1976. The clearance rate was 100 %. In 1980, 1 offender was convicted. (The clearance rate is computed as the proportion of offences reported in 1979 which have been attributed by the police to suspected offenders during the same year.)

Assault. There were 56 assaults reported during 1980; the number has ranged from 56 to 67 since 1976. The clearance rate was 93,0%. In 1980, 29 offenders were convicted.

Robbery. 9 robberies were reported during 1980; the number has ranged from 8 to 13 since 1976. The clearance rate was reported as 83,3 %. In 1980, 1 offender was convicted.

Theft. 1 583 thefts were reported in 1980; the figure does not include minor thefts. This is some 23 % above the figure reported for 1975. The clearance rate was reported as 48,5 %. In 1980, 292 offenders were convicted.

#### II.2. Sanctions

For all offences dealt with in court in 1980, a total of 45 430 non-custodial sanctions were used. The majority of these, 42 063 (92,9 %) were fines. 136 probation and 103 suspended sentences were used, and 3 228 offenders were absolutely discharged or received a conditional discharge.

or other binding over order.

These non-custodial sanctions include sanctions imposed for traffic and regulatory offences. When only serious offences are considered, there were 34 punishments involving probation, 61 involving a suspended sentence, and 207 involving a fine during 1980.

During 1980, the average length of time in detention, from the time of detention to the final disposition for all offences was 11,48 days. 170 persons were sentenced to less than 6 months, 36 for over 6 months but less than one year, 39 for over a year but less than 5 years, and 3 for over 5 years. No offender was sentenced to life imprisonment.

Cyprus has one prison, with 400 adult and 9 juvenile places.

### II.3. Personnel and resources

Cyprus reports the following personnel engaged in crime control duties in 1980:

3 368 policemen

27 prosecutors, of whom 4 are prosecutors from the Office of the Attorney General who undertake the prosecution in serious offences triable by the Assizes

36 judges, of whom 5 are engaged full-time with criminal cases

159 prison staff, of whom 149 were warders and senior warders

The response notes that about 13 % of the total police work during 1980 was devoted to criminal investigation duties. Other duties include crime prevention, laboratory examination and other operational duties; no estimate is available as to the percentage of the work devoted to these activities.

According to the figures reported, the resources allocated to the various criminal justice agencies in 1980 was as follows:

police	35 182 870 USD
prosecution	671 343
courts	2 239 737
prisons	1 447 830

(1980 mid-point rate: .345 £ = 1 USD)

### III. Selected issues

Pre-trial detention. The average time in detention awaiting trial is available for groups of offences. The time refers to the period between the formal charging of the suspect, to the final disposition of the case. For example, for offences against the person, the average period in detention awaiting trial was 3,51 weeks; for property offences, it was 1,29 weeks. For all offences, the average was 1,70 weeks.

Recidivism. The response gives the proportion of adults convicted in 1978 who had previously been convicted. Of the total, 46,01 % had previous convictions. The proportion for those convicted of offences against the person was 46,00 %, and for offences against property, 50,56 %.

The response also notes that of the 248 persons received in prison during 1980, 57 had already served a custodial sentence, 13 of them within 5 years prior to the present imprisonment.



## CZECHOSLOVAKIA

### I. Background

During the period between the two World Wars, the old Austrian penal code from 1852 and the Hungarian penal code from 1878 were in force in the Czechoslovak Republic. These codes were amended several times and supplemented by a number of penal statutes. The first Czechoslovak penal code was adopted as late as in 1950. It was substantially changed in 1956, and replaced by a new penal code in 1961. This most recent code is now in force. Some amendments have been made, in particular in 1969 and 1973. Also the law of criminal procedure has been changed several times, with codes adopted in 1950, 1956 and 1962.

The preliminary investigation is conducted by the police (the Corps of National Security) under the supervision of the public prosecutor. The public prosecutor is bound by the legality principle, and must therefore prosecute in all criminal cases where he considers that the guilt of a suspect has been sufficiently demonstrated. Further duties of the public prosecutor include the supervision of the observance of socialist legality on the part of the police, courts, and other state organs, as well as by social organization and citizens.

As a rule, the regional court is the court of first instance. In the regional courts the cases are dealt with by a professional judge or by a panel consisting of one professional judge and two lay magistrates. The district court is a court of appeal in cases adjudicated by the regional courts. It also has a limited jurisdiction as a court of first instance. When functioning as a court of appeal, the district court sits in a panel of two professional judges and three lay magistrates. When functioning as a court of first instance, the district court sits in a panel of three professional judges. In these cases the supreme courts of the Czech Republic and the Slovak Republic, respectively, serve as courts of appeal. The Supreme Court of the Czechoslovak Socialist Republic has, among other responsibilities, the power to resolve jurisdictional disputes between the lower courts.

The supreme courts exercise supervision over the judicial activities of the court system. The management of the business of the courts is conducted by the respective Ministries of Justice of the Czech and the Slovak Socialist Republic.

The 1961 Penal Code establishes 18 years as the minimum age of criminal responsibility. Youths from 15 up to 18 years of age may be placed on trial should they commit an offence where the resulting social harm is considered to be not insignificant (limited criminal responsibility). There are no special juvenile courts in Czechoslovakia. The courts have, however, established benches of judges to deal with

cases of juvenile crime.

The prison service operates under the supervision of the Ministry of Justice.

## II. Statistics

### II.1. Selected offences

Intentional homicide. There were 112 cases of intentional homicide reported during 1980. This figure includes attempts. From 1975 to 1980, the annual number of intentional homicides varied between 73 and 121. In 1980, 105 offenders were convicted for this offence. The annual number of convictions between 1975 and 1980 varied between 68 and 105.

The clearance rate for intentional homicide was 96%. (The clearance rate is defined as the proportion of persons against whom criminal proceedings are initiated (including unknown offenders, out of the number of persons who have been identified as alleged offenders by the police).

Assault. There were 7 378 assaults reported during 1980. The figure includes attempts. This figure is about 24 % smaller than the respective figure for 1975. In 1980, 5 492 offenders were convicted for assault, a figure about 30 % smaller than the respective number of persons convicted in 1975. The clearance rate for assaults was 79 %.

Robbery. 805 robberies (including attempts and minor robberies, but not robberies directed against socialist property) were reported during 1980, 40 % more than in 1975. In 1980 there were 710 convictions for robbery, 43 % more than in 1975. The clearance rate for robbery was 74%.

Theft. In 1980 there were 17 214 thefts reported, 12 % more than in 1975. There were 13 257 convictions for theft in 1980, 9 % more than in 1975. From 1977 to 1980 the figures for reported thefts as well as for convictions for theft remained fairly stable. The above figures cover thefts of another person's property as well as thefts and related offences against socialist property. However, minor larcenies are not included. The clearance rate for theft was 69%.

### II.2. Sanctions

Out of the total number of offenders dealt with by the courts in 1980, a total of 52 334 non-custodial sentences were used. 21 489 (41 %) of these were suspended sentences, and 19 838 (38 %) were so-called reformatory measures. The latter measure generally involves the forfeiture, for a period fixed by the court, of ten to twenty five per cent of the remuneration for work earned by the offender.

Some information on the length of the custodial sanctions can be derived from the data on the prison population. In 1980 there were 35 441 sentenced prisoners, of whom 13 154 (37%) served sentences of less than 6 months; 9 431 (27%) served sentences between 6 and 11 months; 12 263 (34 %) served sentences between 1 and 5 years; and 633 (2 %) were serving sentences of deprivation of liberty for more than 5 years up to 15 (in exceptional circumstances, up to 25 years).

During 1979 the courts meted out 35 259 custodial sentences. These sentences included 15 473 sentences of deprivation of liberty for up to 6 months (44%); 9 067 sentences (26 %) for more than 6 months and up to one year; 10 192 sentences (29 %) for more than 1 year and up to 5 years; and 527 (1 %) for more than 5 years.

The size of the total prison population is not given in the response to the Second United Nations Survey, but the number of sentenced prisoners suggests that it is on a small decline. In 1975 there were 39 580 sentenced prisoners, in 1977 36 220, and in 1980 35 444, i.e. 10 % less than in 1975.

### II.3. Personnel and resources

Czechoslovakia reported the following personnel engaged in crime control duties on 31 December 1980:

the police: data not available. Approximately 25 % of the total volume of activities of the police (the Corps of National Security) is devoted to criminal investigation.

public prosecutors: data not available. In the capital city of Prague (1 182 294 inhabitants in 1980), there were 111 public prosecutors.

1 975 professional judges in the entire country. Over half of these were males. 783 of these professional judges deal with criminal matters. There were also 28 892 lay magistrates acting in civil and/or criminal matters.

prison staff: data not available.

### III. Selected issues

Pre-trial detention. The response to the Second United Nations Survey notes that the average time in detention awaiting trial was, for all offences, 10 weeks. This length of detention is calculated to the day the final decision becomes legally valid. Thus, if the lower court decision is appealed against, the legally valid decision may be that of the court of appeal. The response further notes that pre-trial detention is possible only on grounds specified by law, and that the great majority of the

cases do not require such detention.

**Recidivism.** The response notes that the recidivism rate is calculated as the number of persons for whom a previous conviction was considered an aggravating factor in the meting of punishment for a new offence. In 1978, the recidivism rate calculated in this manner was 30 % for all crimes recorded. The response further notes that special attention has been given in criminal justice planning to the problem of recidivism, by attempting to increase the effectiveness of post-correctional measures and activities, e.g. in providing suitable accommodations and employment, and in improving coordination between the authorities and voluntary organizations.

**Adjudication.** The response notes that one of the most important forms of socialist democracy in the judiciary of Czechoslovakia is the participation of the working people as lay judges in adjudication. This institution is also considered an important political institution, in that it embodies the guarantee of the principle that the judiciary is an integral part of the exercise of state power, and that this power is exercised by the working people. The response goes on to note that the benefits of this system include the great wealth of practical experience that the lay judges bring to judicial proceedings, and the dissemination of information on judicial practice.

**Corrections.** Volunteers play a significant role in corrections, through voluntary social organizations. Certain local organizations may decide to offer a guarantee for the reform of a person accused of an offence. The competent court may take this into consideration in the determination of the penalty. The organization which has undertaken the guarantee shall attend to the re-education of the accused and shall see supervise that the accused compensates the damages caused by the crime. Such action is also possible in connection with the parole of a prisoner.

## DENMARK

### I. Background

The Danish Criminal Code is from 1930. The special rules governing criminal procedure are to be found in the Legal Procedure Law of 1916. Both laws have been revised and supplemented.

Criminal cases are investigated by the police, which is organized as a national police headed by a State Chief of Police. When the police has reasonable evidence against a suspect the case is forwarded to the prosecutor who will decide whether to prosecute or to waive prosecution. The Danish system of prosecution follows the principle of opportunity, which means that the prosecutor may waive prosecution in cases where the public interest does not call for adjudication and punishment.

The prosecutorial organization is formally a part of the Ministry of Justice. The daily work is headed by a Director of Public Prosecution. A body of county and district prosecutors deal with the more serious cases, and the chiefs of police and their legal staffs deal with the less serious cases.

The minimum age of criminal responsibility is 15 years. Children under this age are handled by the welfare authorities. Also cases involving youths between 15 and 18 years may be dealt with by these authorities.

The court system consists of district courts, county courts and the Supreme Court. Most cases are handled by the district courts, where the sessions are presided over by a professional judge acting alone in misdemeanours and in cases where the accused has confessed. In other cases the judge is assisted by lay judges.

The decisions of the district court may be appealed against to the county court. The participation of lay judges in these cases is mainly dependent upon whether or not lay judges were present in the court of first instance. In certain (very serious) cases the county courts act as courts of first instance. In such cases there is always both professional and lay judges.

### II. Statistics

#### II.1. Selected offences

Intentional homicide. In 1980 237 cases of homicide (including attempts) were reported to the police. This is almost three times as many as in 1975. The clearance rate was 90 %. 178 persons were charged.

Assault. 5 462 cases of assault were reported in 1980, a 60 % increase over 1975. The clearance rate was 75 %. Approximately 3 400 persons were either sentenced by the courts or found guilty by other authorities.

Robbery. In 1980 1 461 cases of robbery were reported to the police. This is twice as many as in 1975. The clearance rate is reported to be 45 %. 513 persons were sentenced for this offence.

Theft. In 1980, 226 292 cases of theft (including petty theft) were reported, an increase of about 25 % over 1975. The clearance rate was 23 %. A total of approximately 20 000 persons were sentenced by the courts or found guilty by other authorities for this type of offence.

## II.2 Sanctions

In 1980 there were 35 500 decisions (including sentences) by the courts and other authorities on crimes against the Penal Code. Of these, 19 % (6 522) were sentences of imprisonment, 16 % conditional sentences, 30 % fines and the rest (35%) e.g. waivers of prosecution by the prosecutors.

In addition to these Penal Code cases, 65 997 cases concerning violations of other laws were decided. 84 % of these cases were settled outside of court, mostly by means of a summary fine dealt with by the prosecution within the police force. 8 885 cases handled by the courts resulted in sentences to imprisonment.

Of the total number of sentences to unconditional imprisonment (16 871) 64 % were sentences of one month or less. 88% received sentences of 6 months or less.

In 1980 14 690 persons were admitted to prisons to serve sentences. As of 1 October 1980, 2 381 persons were serving sentences in Danish prisons. Of these, 79 (3.3 %) were women.

Denmark has 59 prisons, of which 49 had a capacity of less than 100 inmates. Only one prison had a capacity of more than 500 inmates.

## II.3. Personnel and resources

Denmark reports the following figures for 1980.

3 613 police officers and an additional staff of 2 699 in administration

314 prosecutors

278 professional judges

The 1980 budget for the police and the prosecution was approximately 170 million USD (1980 mid-point exchange rate 6.015 DEK = 1 USD). The net expenses for the prison, parole and probation services were approximately 55 million USD, 10 % of which involved services outside the prisons.

### III. Selected issues

Crime prevention activities. The Danish government established in 1971 a Crime Prevention Council, consisting of representatives from some 40 different organizations. The council reports that its activities include many different aspects of crime prevention ranging from technical advice to planning and implementation of local prevention tactics. Special reference was made to local activities for youth.

Recidivism. A study of recidivism carried out in 1981 dealt with those sentenced to a punishment more than a fine during a two-year period following conviction or release. The recidivists were divided into groups according to the type of sentence served. The largest groups were those who served a full sentence (1178), of whom 39% became recidivists; those who were paroled after serving two-thirds of their sentence (1320) and placed under supervision; of these 52% became recidivists; and those who were given a suspended sentence under supervision (1383), and of whom 34% became recidivists. Recidivism was found to be more likely for offenders up to the age of 24, even when the length of sentence was taken into account.

## ENGLAND AND WALES

### I. Background

Although English law is traditionally case law, the criminal justice system today is primarily dealt with by legislation. However, the system operates under a large array of different laws, and not a unified penal code. Some of the more important pieces of legislation are recent, and include the Criminal Justice Act (1967, 1972), the Powers of Criminal Courts Act (1973) and the Criminal Law Act (1967, 1977).

In principle every person subjected to an offence has the right to bring charges before a court of law, but in practice most cases involving criminal offences are today handled by the police. A typical feature of the English system is that the police has great discretion in deciding whether or not a complaint shall be investigated and whether or not a suspect shall be prosecuted. With the exception of certain serious cases handled by a small centralized authority (the Director of Public Prosecution) all prosecutorial decisions rest with the local chief of police, the Chief Constable. Initiatives have been made to establish an independent system of prosecution.

Most police forces have police solicitor departments which provide legal advice and undertake prosecution in court.

As a consequence of the discretionary power vested in the police, a system of waiver of prosecution has been institutionalized. A feature which is of special significance is that written warnings can be given in cases of traffic violations (approximately 20 000 cases annually), and cautions are often used especially in juvenile cases (approximately 100 000 cases annually). Minor traffic violations are generally dealt with through the "ticket" system (approximately 1,5 million cases annually), where the case is handled outside of the courts.

The English court system consists of lower courts (magistrates courts) and higher (Crown) courts (the Court of Assize, the Central Criminal Court etc.). The High Court of Parliament serves as the supreme court.

Most cases (98 %) are tried in a magistrate's court. The magistrate (also known as a justice of the peace) is a lay person appointed by the Lord Chancellor, and who undertakes his (her) duties in a voluntary capacity. There is also a small number of full-time magistrates, who are usually legally trained.

When trying cases, lay justices sit as a Bench of between 2 and 7, the usual number being 3. A stipendiary magistrate may try cases alone. Justices have powers to impose a fine of up to £1 000 or a term of imprisonment of up to six months for any one offence, subject to any limit imposed by



statute in respect of a particular offence. The justices are advised by legally qualified court clerks. In principle these courts handle all so-called summary offences, that is, those offences which do not go before a jury. The jury trials are usually reserved for the Court of Assize or, in London the Central Criminal Court ("Old Bailey").

The minimum age of criminal responsibility is 10 years. Should the suspect be a child between 10 and 14 years, adjudication is dependent on a demonstration that the suspect was aware of the criminal nature of the act.

## II. Statistics

### II.1. Selected offences

**Intentional homicide.** In 1980, 775 intentional homicides were recorded by the police. The number appears to have remained stable since 1976. The figure includes murder, manslaughter and infanticide but not attempts; in 1980, 155 attempts were reported. 169 persons were sentenced by the courts in 1980.

**Assault.** There were 95 601 cases of assault reported in 1980, an increase of 38 % over 1975. A total of 56 277 persons were sentenced or cautioned in 1980, which is 44 % more than in 1975. The figures mentioned include only indictable offences (wounding or other act endangering life, other wounding and assault).

**Robbery.** The total number of recorded robberies in 1980 was 15 006, which is 33 % more than in 1975. The number of sentenced persons was 3 580. This latter figure has remained stable since 1975.

**Theft.** In 1980, 2 043 044 cases of theft were recorded by the police. This excludes e.g. the handling of stolen property and the offence of going equipped for stealing. There has been a slow but steady increase of approximately 18 % over the figure for 1975. In 1980, 358 739 persons were sentenced or cautioned for theft, and an additional 28 000 for the handling of stolen property. These figures have remained stable since 1975.

### II.2. Sanctions

The total number of persons found guilty in court or cautioned by the police for indictable offences in 1980 was 556 357. Of these persons 18 % (101 000) were cautioned. For summary offences an additional 1,8 million cases were decided by the courts or through police cautions. Approximately 200 000 traffic cases were dealt with through written warnings.

The number of persons sentenced during 1980 to imprisonment, borstal or detention centers was 63 341. In addition

some 17 000 persons were received into prisons for default of payment of a fine. Approximately 2/3 of all sentences were for less than 6 months and approximately 10 % were for 3 years or more.

The daily average prison population (excluding persons awaiting trial but including those in borstal training and detention centres) was approximately 35 800.

In 1980, there were 137 prisons in England and Wales. Six of these were junior detention centers for males aged 14-16 years. Of the rest, 19 had a capacity of less than 100 persons, 37 between 100 and 199 persons, 54 between 200 and 499 persons, 18 between 500 and 999 persons and 3 a capacity of 1 000 persons or more.

### II.3. Personnel and resources

163 591 persons in the police forces of England and Wales (including the Metropolitan police force). Of these, 117 423 were police officers. According to an estimate given in the response, about 12 % of the police force establishments were employed in criminal investigation departments in 1980. In addition, the uniform branch (some 74 % of the police force establishments) works on criminal incident matters.

prosecutors: as mentioned above, the responsibility for prosecution lies with the police. There are altogether 43 police forces. Of these 35 have their own prosecuting solicitor's department (situation as of March 1983) with approximately 535 solicitors (qualified lawyers) in charge of prosecution duties (situation as of March 1978).

505 full time and 800 part time professional judges dealing with criminal cases. The number of lay judges or magistrates (justices of the peace) was 25 435.

21 474 persons in the prison system, of whom 17 031 were custodial and 2 311 members of the treatment personnel.

The resources allocated to the different services are reported to be the following in 1980:

police and prosecution	4 245 000 000 USD
courts (magistrate's courts only)	317 000 000
prisons	950 000 000
community-based services	270 000 000

(1980 mid-point rate .419 £ = 1 USD)

### III. Selected issues

Crime prevention. The report includes information about a wide range of crime prevention initiatives taken by the central government, the police forces and the local governments. The basic idea behind the activities is to improve the situation in the local areas, especially residential areas, by means of improvements of the management and maintenance of public housing, the planning of new areas in order to increase informal social control of criminal behaviour, advising people on how to safeguard themselves against crime and bringing the police into better contact with the public. However, it is also pointed out that there are great difficulties involved in measuring the impact on crime that these different techniques may have, due to the number of other factors involved.

Pre-trial detention. According to the prison statistics, the average time spent in detention awaiting trial was 35 days.

Recidivism. Information is available on the number of persons reconvicted within two years of discharge from prisons, borstals and detention centres, with the exception of those discharged after sentences of three months or less, fine defaulters, and those reconvicted of non-serious offences. Of those discharged in 1975, 60 % were reconvicted within two years.

## FEDERAL REPUBLIC OF GERMANY

### I. Background

The development of the criminal justice system of the Federal Republic of Germany has been influenced in particular by the French (Napoleonic) Penal Code of 1810, the French Procedural Code of 1808 (Code d'Instruction Criminelle), the Prussian ALR (Allgemeines Landrecht) of 1794 followed by the Prussian Penal Code of 1839. The last-mentioned code formed the basis for the Penal Code of the Union of Northern German States (Norddeutscher Bund) of 1869 which, after the proclamation of the German Empire in 1871, and with only slight modifications, became the Penal Code of 1871 (Reichsstrafgesetzbuch).

The Penal Code was fundamentally revised in 1975. The Code of Criminal Procedure (Strafprozessordnung), despite many amendments and detailed revisions, retained its basic structure as tailored in the original version of 1877. The basic Act for the Organisation of Courts and Prosecution Authorities (Gerichtsverfassungsgesetz) also stems from 1877.

The Penal Code does not cover the entire range of criminalized behaviour. Out of the many special Acts, called "Nebenstrafgesetze", however, only a few have a significant quantitative impact in practice. Examples of these include the Traffic Act, the Law on Dangerous Drugs, and the Taxation Laws.

The Law of Execution of Sentences (which also legislates preventive measures) was enacted in 1976 after nearly 100 years of debates and drafts, and came into force on 1 January 1977 as the "Strafvollzugsgesetz" (Prison Act).

The minimum age of criminal responsibility is 14. Those from 14 up to 18 are dealt with as minors. As a rule, however, all suspects up to 21 years of age are to be tried before the juvenile penal court. Those defendants between 18 and 21 years of age are legally called "Heranwachsende" (adolescents). As such, they are not to be convicted and sentenced in accordance with the (general) Penal Code if the juvenile penal court determines either that they exhibited, at the time of the criminal act, signs of a juvenile personality or that their behaviour might be excused as typical juvenile behaviour. If this is the case, the possible sanctions will be determined by the Juvenile Penal Code of 1953 (Jugendgerichtsgesetz; the prior Codes were from 1923 and 1943).

Offences by children below the age of 14 are dealt with, if necessary, by the municipal or county child welfare authorities (Jugendämter), and, should inter alia a form of deprivation of liberty be considered advisable, by the local guardianship court (Vormundschaftsgericht).

The investigation of offences is generally dealt with by the police. Other law enforcement agencies (with police power in substance) have only restricted jurisdiction either in terms of the Acts concerned or with regard to their geographical jurisdiction. Examples include the tax authorities, business control authorities, Train Police and customs authorities.

The police, including the criminal investigation branch, operate under the supervision of the Ministers of the Interior of the "Länder", the States of the Federation. The Federal Government commands the Central Bureau of Investigation (Bundeskriminalamt) and the special Border Police Force (Bundesgrenzschutz).

The results of every police investigation in criminal matters are to be passed on to the prosecutor. The prosecutorial offices are attached to each regional court (Landgericht) and they are also responsible for the cases to be tried before the local courts (Amtsgerichte) under the jurisdiction of the relevant regional court. There are also prosecutorial offices attached to the High Courts of Appeal (Oberlandesgerichte) of the 11 Länder and, with special tasks, to the Federal High Court of Appeal in Karlsruhe (Bundesgerichtshof).

The courts of first instance are the Amtsgerichte for misdemeanors and minor crimes, the Landgerichte for major crimes and the Oberlandesgerichte and the Bundesgerichtshof for political crimes (crimes against the State, terrorist acts, espionage etc.).

The system of administration of justice in the Federal Republic is highly legalistic in principle. The guiding idea in the administration of penal law is that of mandatory prosecution. However, this so-called legality principle has been mitigated since 1924 by the ever-expanding possibilities provided to the prosecutors and the courts to stop further prosecution, for example on grounds of lack of evidence. The possibilities are also increasing of waiving punishment if the offence is normally not a felony, and is instead in substance a minor one in terms of the offender's guilt (which is not determined by the damage caused) and if the public interest does not require that sanctions be imposed. Moreover, the prosecutors and juvenile penal court judges can decide to deal with a youth without a formal trial in order to avoid, inter alia, public stigmatization and penalties not regarded as suitable in the individual case. They can transfer the case to so-called informal educational procedure.

In the strict legal sense, the police do not have discretionary power at all in criminal matters. However, a large portion of what were formerly traffic offences have been decriminalized since the end of World War II, primarily by the special Acts of 1964 and 1969/1970. These offences are now dealt with as administrative transgressions (Ordnungswidrigkeiten). They belong to the jurisdiction of municipi-

pal, regional or State traffic authorities, who have the power to impose "poenas" of up to 1 000 DM, or to revoke the driver's license for a period ranging between 1 and 3 months. Police officers may impose admonitory fees of from 5 to 20 DM. The traffic authorities and, to a moderate degree, individual traffic police officers are legally entitled to follow the opportunity principle in these matters.

Some criminal offences, furthermore, are considered "Privatklagedelikte" (complainant offences). The complainant (e.g. the victim of a simple assault or insult) may in all such cases personally present the case in court, regardless of the prosecutor. The prosecutor may normally not bring charges unless the complainant explicitly requests this by a written demand for public prosecution (Strafantrag).

## II. Statistics

### II.1. Selected offences

Intentional homicide. There were 2 733 cases of intentional homicide (including attempts) reported during 1980. The rate per 100 000 in population was 6,7. The clearance rate was reported as 95,1 %. 692 offenders were convicted. The amount of crimes reported has remained on a rather stable rate over the 1975-1980 period.

Assault. There were 179 740 assaults reported during 1980. The figure includes petty assault, aggravated assault, assault with severe bodily injury, assault with lethal consequences and poisoning. The rate per 100 000 in population was 290,0. The clearance rate was reported as 88,8 %. In 1980, 29 220 offenders were convicted. The amount of crimes reported climbed considerably since 1975:

1975	117 798
1976	122 778
1977	135 037
1978	137 222
1979	153 317
1980	179 740

Robbery. There were 23 691 robberies reported during 1980. The figure includes simple robbery, aggravated robbery, robbery with lethal consequences, theft with violence and violent extortion. The rate per 100 000 in population was 38,5. The clearance rate was reported as 52,4%. In 1980, 5171 offenders were convicted. The amount of crimes reported has remained rather stable over the five-year period from 1975 to 1980.

Theft. 2 437 824 thefts were reported in 1980. This figure includes minor thefts and thefts of a (motor) vehicle. The rate per 100 000 in population was 3 960,1. The clearance rate was reported as 29,4%. In 1980, 154 751 offenders were convicted for theft. The number of reported

thefts has climbed steadily since 1975:

1975	1 909 418
1976	1 987 577
1977	2 149 741
1978	2 215 415
1979	2 295 694
1980	2 437 824

## II.2 Sanctions

For all offences dealt with in court in 1980, 732 481 (78,8%) of the 928 906 defendants (a term which is not entirely synonymous with individual persons) were convicted and sentenced. 599 832 cases (81,9%) were handled along the principles of general criminal law whereas 132 649 (18,1%) cases were dealt with in accordance with juvenile criminal law.

The majority of sanctions used in general criminal law cases were fines (494 114, or 82,4 % of 599 832). Out of the 104 850 prison sentences, 68 878 (65,7%) were conditional ones with or without a probation order. 35 972 sanctions (34,3% or 6,0% of the total) were imposed as custodial sanctions to be served in prison. In addition to a few cases of short-term deprivation of liberty for military personnel, there were 1 309 persons who have been admonished while a sentence (a day-fine of up to 180 units) has been reserved.

## II.3 Personnel and resources

The Federal Republic of Germany reports the following personnel as engaged in law enforcement and corrections in 1980:

193 912 policemen, of whom 168 611 were in the service of the Lander and 25 301 in the service of the Federal Government. Of the total of the Lander police force (as per 15 October, 1982), 112 282 were regular police officers and 23 038 were engaged in criminal investigation matters; 27 779 served in the stand-by police forces, 5011 were in police staff colleges and 511 in other police institutions. Of the total of the Federal manpower 20 766 persons served in the Federal Border Guard, 1473 were officers in the Federal Bureau of Criminal Police, 102 were officers in the administration of the Federal Parliament, and 2960 were full-time railway police officers.

4 325 prosecutors (as of 31 December, 1980) including those serving in local courts only.

16 657 professional judges at different court levels, of whom 4516 are estimated to deal full-time or at least as part of their duty with criminal cases. There are,

in addition, 29 783 lay assessors as members of criminal courts. They have a full vote with regard to conviction and the setting of the penalty. There are no lay judges working full time.

23 628 prison staff, of whom 3069 were management, 17 042 custodial, 1493 treatment, and the rest e.g. trade instructors.

According to the figures reported, the resources allocated to the various criminal justice agencies in 1980 was as follows:

police	(data unavailable)
prosecution and courts	2 345 000 000 USD
prisons	822 000 000

(1980 mid-point rate 1.959 DM = 1 USD)

### III. Selected issues

**Criminal law.** The response notes that the narcotics law was revised by the Narcotics Law Reform Act of 28 July 1981 which entered into force on 1 January 1982 and which, inter alia, raised up to 15 years the maximum term of imprisonment for smuggling or selling larger amounts of hard drugs.

**Crime.** Traffic crime is not recorded in the crime statistics of the police. Court statistics, however, show that nearly half of the cases dealt with by the criminal courts (more than 900 000 cases in 1980 in total) are traffic cases. These figures do not include the petty traffic transgressions where the administrative poenas imposed had been appealed against, and the case had been transferred to the local criminal courts (more than 600 000 cases in 1980).

**Pre-trial detention.** The Constitution of the Federal Republic requires that a person arrested and detained by the police be remanded for trial as soon as possible or released, at the latest, at the end of the day following the arrest. The remand decision has to be made by a professional (criminal court) judge. Neither the police nor prosecutors are entitled to hold a suspect in custody on their own right, even in exceptional cases when a decision of a judge can not be obtained within the 24 hour (or, in certain cases, 48 hour) period of preliminary investigation.

A prisoner is regarded as being in remand not only before trial but also after conviction, until such time as a final and legally valid decision has been given in the case. A lower court decision will not be final if it has been appealed against. Data on the length of time spent in remand prison is available in the response to the Second United Nations Survey only in regards to those persons charged with an offence by the prosecutor and who have been brought to a full trial. The data, therefore, does not



include those persons who have been arrested but not charged, charged but not proceeded against by court, or proceeded against but whose case has been closed without a trial. The relevant figure for 1980 is 37 401 or 4,02 % of all persons formally adjudicated. The average time spent in detention awaiting trial can not be calculated, but the following breakdown is reported: 15 158 (40,5 %) up to and including 1 month, 9 900 (26,5 %) more than one and up to 3 months, 6 919 (18,5 %) more than 3 and up to 6 months, 4176 (11,2 %) more than 6 months and up to 1 year, and 1 248 (3,3 %) more than 1 year.

Recidivism. Up to now there has been no reliable nationwide survey of recidivism after conviction and sentencing. Official data pertain only to the percentage of those persons dealt with by correctional institutions that have previously been suspected or convicted for a crime. The report notes, however, that a data bank was established a few years ago. It is hoped that this data bank will permit the compiling of recidivism statistics from the end of 1983.

## FINLAND

### I. Background

The primary influences on the criminal justice system of Finland have come from Sweden. Finland was a part of Sweden up to 1809. A secondary influence has come especially during the late 1800s from Germany.

The basis of criminal law and procedure is found in the 1889 Penal Code, the Decree on the Enforcement of the Penal Code and the Code of Judicial Procedure. All this legislation has undergone extensive amendments. To a large extent, violations of the law are dealt with outside of the penal code, notably in the Traffic Act and the Narcotics Act.

Generally, the investigation of offences is dealt with by the police. Other authorities, such as the taxation, customs and labour authorities, investigate only a small percentage of offences. The police operate under the supervision of the Ministry of the Interior.

The results of the police investigation are passed on to the prosecutor, who in the cities is a full-time prosecutor, and in the rural areas is the district police chief or assistant chief. As prosecutors, all of these officials are under the supervision of the Chancellor of Justice.

A simplified procedure is used in petty cases. Penal orders may be used in cases subject to public prosecution where the maximum penalty is a fine or imprisonment for six months, and the prosecutor calls for a fine. In such cases, the alleged offender has the option of paying the fine or bringing the penal order to the consideration of the court in a normal criminal trial. Some 78 % of all penalties are imposed in this way.

All offences which are brought to trial are dealt with in general courts of first instance. Cases involving senior civil servants and certain other offences are dealt with by the court of appeals as the first instance. All courts are independent, with the budget coming through the Ministry of Justice.

Key characteristics of the administration of justice in Finland include the following. The Finnish system is very legalistic, and adheres to the principle of mandatory prosecution. However, this has been mitigated by the possibility provided to the police, the prosecutors and the courts of waiving measures if the offence is trivial in the light of the circumstances of the case, it is due to carelessness, thoughtlessness or ignorance, and the public interest does not demand that measures be instituted. Furthermore, some offences are considered complainant offences. In these cases the public prosecutor may not bring charges unless the complainant specifically requests this. The

complainant may in all cases personally present the case in court, regardless of the prosecutor.

The minimum age of criminal responsibility is fifteen; offences by those below this age are dealt with solely by the municipal social welfare or child welfare boards.

A total reform of the criminal law is currently under way. The Criminal Law Committee has thus far issued two reports, a report in principle in 1976 and a report on, primarily, property offences in 1984.

## II. Statistics

### II.1. Selected offences

**Intentional homicide.** There were 254 cases of intentional homicide reported during 1980; this amount has remained on a very stable rate over the 1975 - 1980 period. The rate per 100 000 in population was 5,3. The clearance rate was reported as 96,0 %. (The clearance rate is computed as the number of cases cleared during the year over the number of offences reported during the year. Thus, the "cleared offences" include offences reported during previous years, but cleared during the year under review.) In 1980, 92 offenders were convicted for intentional homicide.

**Assault.** There were 13 964 assaults reported during 1980; this is some 6 % over the figure reported for 1975. The figure includes petty assault, ordinary assault and aggravated assault, but does not include for example assault of an official. The rate per 100000 in population was 290,9. The clearance rate was reported as 91,7 %. In 1980, 8 504 offenders were convicted.

**Robbery.** 1869 robberies were reported during 1980; the number has remained on a stable level over the 1975 - 1980 period. The rate per 100000 was 38,9. The clearance rate was reported as 54,9 %. In 1980, 700 offenders were convicted.

**Theft.** 101 155 thefts (of which 23 208 petty thefts) were reported in 1980. This is some 3 % above the figure reported for 1975. The figure does not include theft of a motor vehicle. The rate per 100 000 was 2107,4. The clearance rate was reported as 31,9 %. For ordinary thefts and aggravated thefts, the clearance rate was reported as 40,8 %. In 1980, 20 043 offenders were convicted; of these, 11 491 were convicted of petty theft.

## II.2. Sanctions

An analysis of Finnish statistical data must begin with the observation that it includes all offences, including those which in many countries are classified as misdemeanours or transgressions, and including violations of administrative regulations. Examples include such minor traffic offences as speeding or running a red light.

For all offences dealt with in court in 1980, a total of 311 150 non-custodial sanctions were used. The majority of these, 296 407 (95,3 %) were fines. 14 556 suspended sentences of imprisonment were used; 5 803 included a fine in addition to the suspended sentence.

The data on sentence length is reported as a cross-section of the prison population on 1 October 1980. At that time, 2323 prisoners were reported as serving sentences below one year, and 1953 as serving sentences of one year or more. In addition, 21 prisoners were serving a life sentence.

The total prison population is reported as of 31 December 1980. At that time, there were 4 489 incarcerated adults. Of these, 4 049 were serving a sentence, 440 were in remand prison, and 148 were "other prisoners", who were serving imprisonment in default of fines, or were dangerous habitual offenders in preventive detention, or under investigation for vagrancy. (The figure "other prisoners" includes both adults and juveniles.) At the same time, there were 395 juveniles (i.e. 15 - 20 year olds) in prison. Of these, 289 were serving a sentence and 106 were awaiting trial.

Finland reports 33 prisons, all of which have under 500 prisoners. 18 of the prisons have under 100 inmates. These prisons include labour colonies, which are classified as open institutions.

## II.3. Personnel and resources

Finland reports the following personnel engaged in crime control duties in 1980:

11 101 policemen, of whom 3 861 are engaged in patrolling and 2 694 in crime investigation

370 prosecutors, of whom 79 are full-time city prosecutors and 291 police chiefs or assistant police chiefs with prosecutorial duties. Those in supervisory capacities (county police inspectors and the Chancellor of Justice) are not included

423 lower court judges (not including lay board members)

2 354 prison staff, of which 1661 were custodial and 184 treatment

According to the figures reported, the resources allocated to the various criminal justice agencies in 1980 was as follows:

police	223 000 000 USD
prosecution	2 000 000
courts	14 000 000
prisons	67 000 000
community-based services	2 000 000

(1980 mid-point rate 3,84 FIM = 1 USD)

The above sums indicate the total sums expended by the State for the agencies in question. It should therefore be noted that for example the police are also engaged in functions which only indirectly relate to the prevention and control of crime, while the courts also deal with civil and, in part, administrative cases.

### III. Selected issues

**Crime.** The response notes that high-proof alcohol dominates the alcohol consumption pattern in Finland, and the amount and structure of alcohol consumption is acknowledged as an important factor in explaining fluctuations in the amount of violent crime.

**Pre-trial detention.** Finnish law requires that the persons detained by the police be remanded for trial or released within three days, plus a maximum of four days for transporting the suspect. However, if it is considered extremely important from the point of view of the investigation of the case that the suspect be held in custody, the police may hold the suspect for an additional fourteen days. Once the suspect has been remanded for custody, the matter must be dealt with by a court within 8 days (in urban areas) or 30 days (in rural areas). Currently (1985), legislation is before Parliament on e.g. a reduction of this lengthy period of arrest.

In Finland, a prisoner is considered to be in remand until a final and legally valid decision has been given in the case. Thus, a prisoner is considered held in remand even if a lower court has given judgment in the matter, but the person in question has appealed. Finland reports that, of those released from prison during 1980, a total of 2774 had been held for at least part of the period in prison in pre-trial detention. In 1455 cases, this detention lasted under one month, and in 296 over six months. The time spent in pre-trial detention is subtracted from the final sentence.

**Criminal justice.** Finland has undertaken several reforms intended to reduce the use of imprisonment. This includes measures which expand the use of alternatives, such as fines and suspended (conditional) sentences, other legisla-

tion which lowers the minimum punishment for certain offences (as in the case of drunken driving in 1977), and plans for reform to lower the general minimum term of imprisonment from the present two weeks to one week. The median sentence of imprisonment is currently 3,5 months.

Recidivism. Intermittent surveys of recidivism are carried out using the cohort method. According to a five-year follow-up study carried out regarding all first-time offenders sentenced to conditional or unconditional imprisonment in 1970, 28 % later received another sentence leading to imprisonment. This recidivist rate was high for those originally convicted of robbery (56,6%) and theft (46,4%) but low for example for those convicted of intentional homicide (7,4%). 34,5% of those convicted of assault committed a new offence leading to imprisonment.

## FRANCE

### I. Background

The present criminal justice system of France has received many of its distinctive features after the French Revolution of 1789, especially in connection with the passing of Napoleonic legislation in substantive and procedural criminal law at the beginning of the 1800s.

The basis of substantive criminal law is found in the 1810 Penal Code (Code Pénal) with its many revisions, the most recent and fundamental ones being that of 1975 reforming the system of fines and conditional sentences, and instituting a number of alternatives to imprisonment. Another important recent reform was the 1983 Act which partly abrogated the so-called "Security and liberty" Law.

A total revision of material penal law has been underway for a long period. A first Draft Penal Code was published in 1978 and a second one in 1983.

The basis of formal criminal law is found in the Procedural Code of 1957 (Code de Procédure Pénale) which is a successor of the original Code of 1808 (Code d'Instruction Criminelle).

Among other sources of criminal law the new Drug Act of 1970 is of particular importance. One noteworthy element of this Act is that it raises the maximum sentence of imprisonment to 20 years in exceptional cases.

The investigation of offences is generally dealt with by the police. The police forces are divided into two bodies, the Community Police (Police Municipale) with responsibility for towns and counties with less than 10 000 inhabitants and, on the regional and national level, the National Police (Police Nationale, up to 1968 called Sûreté Nationale). The latter comprises the uniformed police and the administrative police forces. Among the uniformed branch are the Préfecture de Police, which is responsible for the Département de la Seine with Paris as its centre (operating under the supervision of Ministry of the Interior) and the Gendarmerie, which is responsible for all of France with the exception of the Seine Department. The Gendarmerie operates under the supervision of the Ministry of Defence.

The Gendarmerie, in turn, is divided into two branches, the Gendarmerie Départementale assigned to the different State regions and the Gendarmerie Mobile as a stand-by force for special tasks of securing public order. As the latter has the status of a military formation, it serves in addition as military police.

The police criminal investigation duties primarily belong to the criminal police authorities (Police Judiciaire) forming a part of the administrative police forces (Police

Administrative) but, to a certain degree, also the other forces may be involved in criminal investigation.

The results of the police investigation are passed on to the prosecutor who is responsible for all further official action (action publique). The prosecutorial force is formally called the Ministère Public and, in everyday practice, le Parquet. It operates under the supervision of the Ministry of Justice (M. le Garde des Sceaux).

A simplified procedure is used mainly in petty cases, e.g. the so-called 1st - 4th class contraventions (contraventions de première à quatrième classe). An important group among these are traffic violations. These contraventions are to be dealt with by the local police tribunal courts (tribunaux de police) which can, as a rule, impose summary fines of up to 2000 francs and, in some rare cases (4th class contraventions), incarceration for from 1 day to 2 months. The police tribunal courts are also responsible for dealing with the so-called 5th class contraventions, e.g. simple assaults, petty bodily injury caused by negligence or breaches of railway regulations. Even here, fines are the rule and short-term imprisonment is the exception.

If the offence is legally regarded as a misdemeanor (délit) and brought to trial, it will be dealt with by the correctional courts (tribunaux correctionnels) as general courts of first instance. The comparatively small number of severe felonious offences (crimes) is handled by the courts of assizes (cours d'assises). A special court for mainly political crimes, the so-called Cour de Sécurité de l'Etat, was recently abolished. All courts are independent. Their budget comes through the Ministry of Justice.

The French system of criminal justice adheres to the principle of discretionary prosecution (the opportunity principle). The public prosecutor may charge a person with an offence if this is in the public interest (action publique) and if the evidence seems sufficient for the procedure. Otherwise he will dismiss the case. If the case is dismissed by the prosecutor, the victim may under certain conditions act as private complainant and personally present the case in court as private prosecutor (action civile). He can also constitute himself as a "partie civile" before the examining judge, who will investigate the case and may refer it to the court.

The minimum age of criminal responsibility is 13. Full adult responsibility comes at the age of 18. Youths between 13 and 16 years of age will generally receive a mitigation in the penalty. If the suspect is between 16 and 18 years of age, the court may elect to treat him or her as an adult, and not apply the mitigation. Offences by those below thirteen (or by youths above this age if their case is not to be dealt with by the criminal justice system) are dealt with by the social welfare or child welfare authorities and the youth courts (tribunaux de la jeunesse), which may impose measures of educational assistance and control.



## II. Statistics

### II.1 Selected offences

Intentional homicide. There were 2 084 cases of intentional homicide reported in 1980, including attempts. The rate per 100 000 in population was 6,1. The clearance rate was reported as 80,99%. In 1980, 370 offenders (not including minors) were convicted. The number of reported homicides has increased since 1975:

1975	1 477
1976	1 599
1977	1 795
1978	1 713
1979	1 910
1980	2 084

Assault. There were 32 926 assaults reported during 1980, including minor bodily injury and other petty cases classified as 5th class contraventions. This amount has remained rather stable since 1975. The rate per 100 000 in population in 1980 was 96. The clearance rate was reported as 77,66 %. In 1980, 25 726 offenders were convicted, not including minors.

Robbery. There were 4 841 cases of robberies (vols à main armée) reported in 1980. The rate per 100 000 in population in 1980 was 14,1. The clearance rate was reported as 22,07 %. Data is missing on the number of offenders convicted for robbery in 1980. The number of robberies in 1980 is somewhat higher than in 1975:

1975	3 523
1976	3 807
1977	4 580
1978	4 706
1979	4 993
1980	4 841

The French statistics on crime known to the police for 1980 note the following: robbery with violence (vol à main armée, avec armes à feu) 5 535; "ordinary" robberies (autres vols avec violence) 40 540 (of which: au domicile 3 098, contre responsables d'établissements 512, contre des femmes sur la voie publique 21 044, and contre d'autres personnes sur la voie publique 15 886).

Theft. There were 1 607 244 cases of theft reported in 1980, including petty thefts. The rate per 100 000 in population in 1980 was 4 668. The clearance rate was reported as 17,84 %. In 1980, 102 351 offenders were convicted, not including minors. The number of reported thefts has increased since 1975:

1975	1 223 250
1976	1 206 521
1977	1 322 820
1978	1 337 923
1979	1 456 417
1980	1 607 244

The French statistics on crime known to the police for 1980 report the following: aggravated theft (vol avec entrée par ruse et cambriolage) 372 937, and simple theft (autres vols) 1 662 291.

## II.2 Sanctions

A total of 632 238 adults were reported to have been convicted for crimes, misdemeanors and 5th class contraventions in 1980. On the basis of the statistical tables attached to the French response to the Second United Nations Survey, the death penalty was imposed by the Courts of Assizes in 16 cases. It should be noted that France abolished the death penalty by law in 1982.

In 1980, the Courts of Assizes and the Correctional Courts are reported to have imposed 1 098 sentences of preventive detention and "réclusion", 102 541 sentences of imprisonment, 229 312 fines, 9 512 "dispences de peine" and 6 017 "peines de substitution" instead of another sentence provided by law. These sentences were for crimes and misdemeanors. In addition, 151 167 persons were sentenced for 5th class contraventions; the source, however, does not give a breakdown of how many of these were fined, and how many were given short prison terms. Of those dealt with by the police tribunal courts, 401 386 were fined and 1 257 received a short-term prison sentence for 4th class contraventions.

A total of 148 335 non-custodial sanctions were reported for 1980. This figure refers to 10 460 "dispenses de peine", 120 215 cases of "sursis simple" (conditional sentence) and 17 660 cases of "sursis avec mise à l'épreuve", that is, "sursis probatoire" (a conditional sentence with an additional probation order). In accordance with French criminal law, prison terms and fines both can be suspended by "sursis". Therefore, in the absence of further details on the decision taken in each category, no reliable conclusions can be drawn regarding how many imprisonment terms imposed would in fact have to be served in prison.

The concept of "peines de substitution" implies that the court has the power to commute a regular penalty. Instead of a short prison sentence it may e.g. withdraw the convicted person's driver's licence for a period of up to five years.

The data on sentence length is reported as a cross-section of the prison population on 1 January 1980. At that time, out of the total of 19 739 prisoners counted, 4 127 (20,9%) were reported as serving sentences below 6 months, 3 073 (15,6 %) of 6 months up to 12 months, 6 882 (34,9 %) of 1 year up to 5 years and 5 324 (27,0 %) of more than five years up to 20 years. In addition, 333 prisoners (1,7 %) were serving a life sentence. The official statistics given for the correctional courts permit the calculation of the length of sentence in the 101 369 terms of imprisonment imposed in 1980, including those that were suspended: 52,6% were below 3 months, 40,3 % were from 3 months to 1 year, 5,8 % were from 1 year up to 2 years and 11 months, 1,05 % were from 3 years to 4 years and 11 months, and 0,3 % were 5 years or more.

The total population is reported as of 1 January 1980. At that time, 45 655 persons were imprisoned. Of these, 15849 (34,7 %) were in remand prison (15 252 adults and 597 minors). The balance of 29 806 persons serving a sentence includes those prisoners sentenced to death, those sentenced to the measure of "tutelle penale" (no longer applicable after 1981), those sentenced to short-term deprivation of liberty as a "peine de police" and those serving a prison term in default of fines.

Of the 29 806 persons serving a sentence, 29 646 were incarcerated adults and 160 incarcerated minors. The total penal population, including that in the overseas departments of France is reported as follows:

1976	30 615
1977	31 653
1978	33 485
1979	34 640
1980	36 934

France reports 170 prisons for 1983. The prison capacity, defined as the theoretical number of prisoners to be held in the building (1 prisoner per individual cell and 1 prisoner for every 5 square meters in multiple cells), is broken down as follows: 96 prisons for less than 100 persons, 29 for from 100 to 199 persons, 36 for from 200 to 499 persons, 7 for from 500 to 999 persons, and 2 for 1000 persons or more.

### II.3 Personnel and resources

France reports the following personnel engaged in crime control duties in 1980:

police: no data available

1 264 prosecutors

4 091 judges. The response notes that, as a rule, all professional judges are entitled or expected to serve in criminal matters. The actual percentage, however, may not be evenly distributed between criminal and other cases. Only a few are regarded as being fully engaged in criminal justice duties. There is no data available referring to the different tasks of the judiciary.

Lay judges serve in criminal matters only in trials before the children's court and as jury members in sessions of the Court of Assizes. Their number is included in the total of 19 669 lay magistrates reported for 1980. For 1979, only 5 607 magistrates were reported. The considerable difference between these figures is explained by a new law expanding the jurisdiction of the labour arbitration tribunals (Conseils de Prud'hommes).

13 513 prison staff, of which 587 were administrative, 10 766 custodial, 1 081 treatment and 1 079 auxiliary

On the basis of a research project concluded in 1984 at the Centre de Recherches Sociologiques sur le Droit et les Justitions Pénales (Thierry Godefroy et Bernard Laffargue), the criminal justice expenditures for 1980 could be calculated as follows:

Total cost of crime control	6 852 000 000 USD
of which	
-private protection measures	(3 324 000 000)
-public expenditure for the prevention of crime	(2 245 000 000)
-public expenditure in reacting to crime	(1 281 000 000)
the police	1 855 000 000 USD
of which	
-reactive	(450 000 000)
-prevention (in general terms)	(906 000 000)
(of which: prevention narrowly defined)	(151 000 000)
Gendarmerie (in criminal matters only)	595 000 000
of which:	
-reactive	(326 000 000)
-prevention	(228 000 000)
prosecution and court (in criminal matters only)	347 000 000
the prison system	337 000 000
the control of juvenile delinquents (éducation surveillée)	101 000 000
the protection of minors in danger	53 000 000

(1980 mid-point rate 4,516 F = 1 USD)

### III. Selected issues

Criminal policy. A very significant recent event was the abolition of the death penalty by law of 9 October 1981.

Law enforcement and corrections. The response to the Second United Nations Survey underlines the important role of volunteers not only in prison matters but also in connection with pre-sentence reports for prosecutors and courts and the "contrôle judiciaire" introduced into the French criminal justice system by law of 17 July 1970. This last-mentioned measure is an alternative to remand imprisonment, and is imposed by the investigating judge. The success of the measure, however, is subject to the availability of suitable persons in the community to perform the practical work needed. The response notes that volunteer organizations are engaging more and more in these duties. The Ministry of Justice supports such organizations financially. The individual volunteers are given an honorarium and can be reimbursed for their expenses.

## GREECE

### I. Background

The present criminal justice system of Greece has largely been shaped after the reaching of independence from under the Ottoman Empire. The original Greek Penal Code stems from 1834. At the beginning of the 20th century, preparations began for a new code. This work on reform was formally promoted since 1911 on the basis of the Swiss Draft Penal Code of 1909. It was not until 1950 that the new Penal Code was proclaimed. The Code entered force on 1 January 1951. At the same time, a new code of penal procedure was proclaimed.

Generally, the investigation of offences is dealt with by the police. The police force is composed of the (municipal) city police for the larger cities of Athens, Piraeus, Patras and Corfu, and the gendarmery for all other towns and regions. The response to the Second United Nations Survey notes that 26% of the city police and 35% of the Gendarmery are engaged in criminal investigation matters.

The results of the police investigation are passed on to the prosecutor. The public prosecutor is responsible for the operation of enforcement procedures, but in general, he does not investigate actively. If he considers further pretrial investigations to be necessary, he may turn the matter over to an investigative judge. The duties of the investigative judge are carried out by specially appointed magistrates or magistrative officers.

The Greek criminal justice system adheres to the principle of mandatory prosecution. However, there are certain exceptions to this legality principle. This is in the case of petty offences which are not considered a violation of public order, for example petty simple assault. In such cases the prosecutor may decide not to bring charges because of the absence of public interest.

The minimum age of criminal responsibility is 12. Children between 7 and 12 years of age may be subjected to security measures, to probation measures by child welfare authorities or to psychomedical treatment.

The age of full adult responsibility is 21. The decision on whether youths between 12 and 16 years of age are to be dealt with as children or as criminally responsible suspects depends in principle on the decision taken by the juvenile court in each individual case. If the court decides that a juvenile is to be held responsible, he can be sanctioned. In the case of deprivation of liberty the sanction will be enforced in specially designed institutions. Youths between 17 and 20 years of age are considered fully responsible, but the court has the option of reducing the penalty.

## II. Statistics

### II.1. Selected offences

Two different sources of information on crime are reported in the Second United Nations Survey. One is the data available at the Ministry of Public Order and which is based upon the archives of the police, the Gendarmerie and the Directorate of Criminal Services. The second source is the data available at the Ministry of Justice, which is based upon the official judicial statistics that refer to action taken by the prosecution authorities. In regards to the selected offences dealt with here, appreciable differences exist only in respect of assault.

Intentional homicide. There were 117 cases of intentional homicide reported during 1980, including attempts. This amount has remained on a rather stable since 1975. The rate per 100 000 in population was 1,2. No data on the clearance rate is available. In 1980, 37 offenders were convicted.

Assault. The data on the development of assaults from 1975 to 1980 is shown below. The difference between the the two sources is attributed in the response to the fact that the prosecution authority statistics do not normally report incidents of petty assault. The rates per 100 000 in population in 1980 were 109,9 for the first source and 44,2 for the second source. In 1980, 3 186 offenders were convicted.

	Ministry of Public Order	Ministry of Justice
1975	9 618	3 921
1976	9 650	4 226
1977	10 124	4 241
1978	10 584	4 457
1979	10 463	4 048
1980	10 543	4 208

Robbery. There were 81 cases of robbery reported during 1980. This is less then the figure for 1975 (94). The rate per 100 000 in population was 0,9. No data on the clearance rate is available. In 1980, 9 offenders were convicted.

Theft. There were 17 750 thefts reported during 1980. The rate per 100 000 population was 186,7. No data on the clearance rate is available. In 1980, 1 648 offenders were convicted. The development in reported thefts since 1975 is as follows:

1975	10 758
1976	11 025
1977	12 087
1978	12 951
1979	14 871
1980	17 750

## II.2 Sanctions

118 086 persons were convicted in 1980. The courts imposed a total of 32 010 non-custodial sanctions. The majority of these, 21 191 (66,2 %) were suspended sentences. A total of 10 437 (32,6 %) fines were imposed. There were, in addition, 357 cases of deprivation of political rights (1,1%) and 25 cases of withdrawal of a professional licence (0,08 %).

The data on sentence length is reported as a cross-section of the (sentenced) prison population at the end of 1980. Out of the total of 2 472 prisoners serving a sentence, 158 (6,4 %) were reported as serving sentences below 6 months, 250 (10,0 %) from 6 to 11 months, 653 (26,4 %) from 1 to 3 years and 1 251 (50,6 %) of more than 3 years. In addition, 160 prisoners (6,5 %) were serving a life sentence. In 1980, there were no longer any prisoners sentenced to capital punishment. The figures for the previous years were as follows: 1975, 13; 1976, 14; 1977, 12; 1978, 10; and 1979, 2.

In addition to the 2 472 prisoners serving a sentence, the prisons held 663 (21,1%) persons awaiting trial. The total prison population at the end of 1980 was thus 3 135.

Greece reports 23 prisons, all of which have under 500 prisoners. The prison capacity was reported as follows: 12 prisons with under 100 places, 6 with between 100 and 199 places and 7 with 200 or more places. In addition, Greece has one prison asylum, one prison hospital and two penitentiaries for juveniles.

## II.3 Personnel and resources

Greece reports the following personnel engaged in crime control duties in 1980:

35 595 policemen, of whom on the average 30,5 % were engaged in crime investigation

312 prosecutors

1 088 judges, responsible for civil and criminal matters and, in addition, 516 judges with jurisdiction only for hearing minor offences and civil cases concerning sums up to 100 000 Drs.

1 331 prison staff, of which 151 were management, 1 071 custodial, 73 treatment and 36 "others".

No data is available on the resources allocated to the police in 1980. The total expenditure for prosecution, the courts and the prisons was 97 000 000 USD. In addition, the children's aid societies has a budget of 116 000 USD and the societies for released prisoners had a budget of 30 000 USD (1980 mid-point rate 46,535 Drs =1 USD).



## IRELAND

### I. Background

The Irish legal system is based upon English common law. As is the case in England and Wales, however, the criminal justice system today is primarily covered by statute law. For historical reasons, this legislation has much in common with English law, although several amendments have been made after Ireland became independent (1922, 1937).

Since 1974 a special office, the Director of Public Prosecution, has been in charge of all prosecution within Ireland. This office has, however, delegated to the police the prosecution of summary offences before the district courts. Most cases are dealt with in this manner. The Director of Public Prosecution does not investigate criminal cases.

The Irish system is built upon the principle of legality. Thus, the prosecutor has the duty to prosecute when there is prima facie evidence to sustain a prosecution in the common law courts, where the accusatorial method of trial is used to determine the outcome.

The first level of courts in the Irish system are the district courts, where a single professional judge, the district justice, presides. These courts have jurisdiction in all cases of summary offences, defined as those offences with a maximum penalty of 6 months imprisonment and/or a fine. Also in the case of more serious offences, the district court will be the court of first instance if the suspect waives the right to trial by jury. Indictable offences are dealt with by the circuit courts, consisting of judge and jury. There also exists a central criminal court, which has jurisdiction in certain very serious crimes (e.g. murder and treason). Also this court has a judge and a jury. Appeals from this court or from the circuit courts are considered by the court of criminal appeal. The Supreme Court may be involved, primarily when a point of law or specific point of public interest is raised.

The Government reserves the possibility of constituting special criminal courts for the maintenance of peace and order. Such courts consist of three judges. Officers in the armed forces may be included. There are no juries, and a majority of two members of the court is required for a conviction.

The age of criminal responsibility is 7 years. Full responsibility is reached at the age of 14. From the age of 7 to 14, criminal responsibility is rebuttable.

## II. Statistics

### II.1 Selected offences

Intentional homicide. 21 cases of homicide and 5 attempts were recorded in 1980. The clearance rate is reported to be 91 %. The number of cases has remained rather stable for the period covered by the Second United Nations Survey.

Assault. In 1980, 2013 cases of assault were recorded by the police. The clearance rate is reported as 91,8 %. The development from 1975 to 1980 was as follows:

1975	1 119
1976	1 329
1977	1 656
1978	1 907
1979	1 949
1980	2 013

Robbery. In 1980, 1 334 cases of robbery were reported. This is an increase over 1975, when the figure was 704. The clearance rate was 39,6 %, and the number of convictions in 1980 is reported to be 109.

Theft. The total number of thefts, including petty thefts, recorded by the police in 1980 was 39 514. The clearance rate was 28,4 %. In 1980, 5 007 offenders were convicted, a decrease over the figure for 1975 (6 696). The development in the number of recorded thefts was as follows:

1975	28 012
1976	28 780
1977	33 933
1978	34 899
1979	31 786
1980	39 514

### II.2. Sanctions

In 1980 the total number of prosecuted persons is reported to be 274 400. 8 748 persons were convicted for Penal Code offences. The district courts imposed 199 180 fines.

Ireland has 9 prisons, five of which have a capacity of less than 100 inmates, two between 100 and 199 inmates, and two between 200 and 499 inmates. The daily average of the number of prisoners in 1980 was 1 214, including 94 persons awaiting trial. Of the 1 120 prisoners serving a sentence, 21 were female.

In 1980 3 048 sentenced offenders entered the prisons. This figure includes 647 youths between 16 and 21 years of age who were committed to a special institution. Approximately half of the prisoners had sentences between 1 and 9 months; 537 prisoners were serving a sentence of one year or more. The median sentence was 6 months.

### II.3. Personnel and resources

9 882 police personnel, of whom 9 747 male and 135 female

73 professional judges (acting both in civil and criminal cases).

1 516 persons in the prison system, of whom 1 269 were classified as custodial staff and 42 as treatment staff. In addition, volunteer work by members of the public is being encouraged.

The resources allocated to the criminal justice system in 1980 were as follows.

police	218 000 000 USD
courts	9 000 000
prisons	46 000 000
other (legal aid)	2 000 000

(1980 mid-point rate .527 IR pounds = 1 USD)

### III. Selected issues

The police. The response to the Second United Nations Survey notes that the most significant problems currently encountered by the police force include escalating criminality and drug abuse. The response notes that the envisaged solution to this, on the part of the police, lies in continued evolution of police effectiveness and training.

Children. The response also notes that a reform is underway regarding the legislation on the protection of children. The new measures will include the principle that arrangements made for children must be consistent with their dependent status, as well as the principle that intervention in the life of a child should be limited to what is absolutely necessary to protect the child's interest or the interests of others. According to the proposal, the new legislation will also raise the minimum age of criminal responsibility from the present level of seven years.

## ITALY

### I. Background

The basic operation and outline of the Italian criminal justice is determined primarily by the Code of Criminal Procedure enacted in 1930. The Code has been amended several times. One major amendment was passed in 1955.

The police are charged with the preliminary investigation of alleged offences in order to detect the perpetrator of the criminal act, and to preserve and add to the evidence collected. The defence counsel has the right to be present when the suspect is being questioned by the police.

The police are obliged to report to the judicial authorities all offences involving ex officio prosecution which comes to their attention.

If the suspect has been arrested, the defence counsel must be present at the interrogation. However, according to a provision introduced in 1978, the participation of the defence counsel is not necessary when the continuation of the investigation requires the urgent interrogation of the suspect. In such a case the public prosecutor must be notified. The minutes of such an interrogation may not be used in judicial proceedings.

The police can remand a suspected person in custody for 48 hours. The judicial authority must be informed of the decision within this period. In the course of the following 48 hours the judicial authority must interrogate the suspect and decide on the legality of the deprivation of liberty and on the necessity of custody pending trial.

The public prosecutor is bound by the legality principle in the presentation of formal charges.

The judicial proceedings begin with a preliminary judicial investigation. In the case of flagrant offences, offences admitted by the suspect and, should the investigation be a simple one, offences which do not entail the risk of life imprisonment, these investigations are conducted by magistrates of the public prosecutor's office ("istruzione sommaria"). In all other cases, the investigation is carried out by an investigating judge ("istruzione formale").

It is the public prosecutor who decides which of the two procedures is to be utilized, but the suspect may request that the investigating judge undertake the investigation. If the suspect is in custody, the investigation must in any case be carried out by the investigating judge if, after 40 days, the public prosecutor has not asked either for discharge or for trial.

The 1930 Code of Criminal Procedure provided for secret investigations, which could not be attended by the defence

counsel whereas the public prosecutor was allowed to participate. In 1955 a law granted the defence counsel the right to be present at certain stages. An extension of the stages in which the right of defence must be assured followed in the next years due to the intervention of the Constitutional Court. Today, the defence counsel has the right to be present during the following stages: the interrogation of the suspect, judicial view, expert judgment, and search.

The provisions on the administration and duration of pre-trial detention have changed frequently. A law enacted in August 1984 has considerably shortened the term. According to this law, the maximum period of custody pending trial is fixed at 6 years for the most serious crimes (those carrying a minimum period of imprisonment of twenty years or life) and at 5 months for the less serious offences (those carrying a maximum of three years). Within these periods of time, the appeal procedure (on questions of fact) and the cassation procedure (on points of law) in addition to, where applicable, the new judgment after the cassation decision, must have been carried out. Furthermore, the various phases of the proceedings carry their own maximum. For example the judgment of the first instance must be pronounced within thirty days for the less crimes and within one and a half years for the most serious ones. During investigation the investigating judge can discontinue the proceedings and discharge the accused.

The minimum age of criminal responsibility is 14 for minors and 18 for adults. Between the ages of 14 and 18, the judge must ascertain if the minor has reached a sufficient level of maturity to be considered responsible for his acts.

In view of the fact that the Code of Criminal Procedure was enacted in different social and political conditions and that it has often been amended, work was undertaken on a new draft during the 1970s. However, it was not enacted and another version is under preparation. The new Code of Criminal Procedure will be designed to accord with the demands laid down by the Constitution and international agreements. It should guarantee greater rights to the defendant and transform the so-called mixed procedure into a primarily contradictory procedure.

In the field of penal law, the so-called Codice Rocco of 1930 is still in use. Also this Code has been amended several times, but the essence of the law has remained much the same.

## II. Statistics

### II.1. Selected offences

Intentional homicide. The number of cases of intentional homicide reported in 1980 was 1977, which represents an

increase of 20 % over the figure for 1975. 652 offenders were convicted in 1980.

Assault. 32 118 cases of assault were reported in 1980. The number is almost the same as for 1975, but the figures for the years 1977 to 1979 were considerably higher. The highest number of assaults was recorded in 1978 (45 892). In 1980, 1 528 offenders were convicted.

Robbery. 4 303 robberies were reported during 1980, a considerable increase over the figure for 1975 (3 340). 2 350 offenders were convicted in 1980.

Theft. 170 170 thefts were reported in 1980. This includes minor offences. The number reported for 1975 is about 25 % higher. 22 181 offenders were convicted in 1980.

Comparing the data from the Second United Nations Survey covering 1975 to 1980 with the data from the first Survey covering 1970 to 1975, it can be noted that the average rate for both intentional homicide and assault is increasing. Intentional homicide has increased by 142,4 %, and assault by 108,6 %. For robbery and theft the data are not consistent throughout the period in question.

The response to the Survey draws attention to the fact that data on recorded criminality are not always reliable.

## II.2. Sanctions

In 1980, a total of 68 187 fines were meted out. No data is available on the use of other sanctions.

The response gives the following number of sentenced persons at the end of 1980.

sentenced to less than 6 months	815
between 6 and 11 months	655
between 1 and 5 years	2 369
over 5 years	3 098
life imprisonment	231

On December 31 1980 the total of incarcerated adults amounted to 29 297, of whom 27 826 males and 1 471 females. Of these 20 144 were awaiting trial. 9 153 adults were serving sentences. There were also 1 649 "other adult prisoners". At the same time 707 juveniles were in detention awaiting trial, and 38 juveniles were serving a sentence. The total prison population decreased in 1978 due to the Amnesty Act; the figure at year's end was 30 165 for 1977, and 23 818 for 1978.

In 1980, there were a total of 233 prisons. Most (136) prisons had less than 100 places. 60 had between 100 and 199 places, 30 between 200 and 299 places, 3 up to 999 places, and 4 over 1000 places.

### II.3. Personnel and resources

Italy reports the following figures concerning the personnel engaged in crime control duties in 1980:

74 481 police personnel. As no personnel is specifically assigned to e.g. crime prevention or investigation, it is not possible to indicate which percentage of the police is involved in criminal justice related activities. However, 2 200 police officers and 2 500 agents have been specifically indicated to the judicial authorities as being entrusted with criminal investigation duties.

6 704 magistrates (including public prosecutors), of whom 3 903 were performing criminal duties and 1 071 both civil and criminal duties.

19 500 prison staff, of whom 17 617 were engaged in custodial duties (prison guards) and 852 in treatment. In addition to these, there were part time workers in health and education, female guards in female institutions, experts in psychology and criminology, chaplains and nuns.

Italy also makes use of volunteers in order to take part in activities aimed at the moral support of prisoners and inmates, and contribute to their future readjustment to society. At present (1983) there are 274 male and 289 female voluntary assistants.

According to the figures reported the funds allocated to the prisons amounted to 425 000 000 USD in 1980 (1980 mid-point rate 930,5 L = 1 USD). Data on the resources assigned to the other sectors of the criminal justice system are not available.

### III. Selected issues

Problems faced by the police. The response to the Second United Nations Survey reports that during recent years there has been a previously unknown outburst of political terrorism and organized crime. This has led to the need for a revision of the institutional structure responsible for public order and safety, as well as for strengthening and improving, from a technical and logistical point of view, the police resources.

The police are also faced by the problems of e.g. the lack of personnel, the problem of foreign citizens (a problem made more difficult by very tolerant legislation), and the control of the lengthy frontiers, especially the maritime frontiers.

## NETHERLANDS

### I. Background

The criminal justice system of the Netherlands has been influenced by both internal development, and especially since the 1810 annexation, by French developments.

A Criminal Code for the Kingdom of Holland was enacted in 1809. After the annexation the French Penal Code of 1810 came into force in 1811. It formed the base for the theory and practice of substantive criminal law even after the Netherlands regained her independence, in 1813. It was administered as a so-called provisional penal code, with the exception of the already reformed system of penalties, up to the Penal Code of 1881, which entered force in 1886. The Penal Code has been considerably amended since then.

Among other central legislation affecting criminal justice are the Military Penal Code of 1903 (revised in 1963), the Opium Act of 1928 (revised in 1976), the Traffic Act of 1935 (revised in 1951), the Economic Offences Act of 1950 (revised in 1976) and the Prison Act of 1951 (revised in 1974).

The basis of criminal procedure is found in the Code of Judicial Procedure, which was enacted in 1921, and entered into force in 1926.

In general, the investigation of offences is dealt with by the police. However, also certain specialized authorities, such as the taxation and customs authorities, also investigate a certain minor amount of offences.

With regard to petty offences, classified as transgressions (e.g. traffic violations), the police have the power to utilize a so-called "transaction" that is regarded, in formal legal terms, as a kind of civil agreement between the state agent (the police officer) and the individual offender. If the person in question agrees to pay the poena set by the policeman in accordance with a fixed tariff, this financial penalty ends the case.

The results of the police investigation in other criminal matters are passed on to the prosecutor. Approximately 20-25 % of the total police work was reported as having been devoted to criminal investigation duties in 1980. In particular cases, prosecutors are said to investigate actively on their own behalf.

For petty offences, the public prosecutor, after having checked the police report, may himself decide to use the "transaction", or he may impose a summary fine in a simplified procedure. All offences which are brought to trial are dealt with in general courts of first instance. The courts are independent, with the budget coming through the Ministry of Justice.



The Dutch system of the administration of justice does not adhere to the principle of mandatory prosecution, but follows instead the so-called opportunity principle.

The minimum age of criminal responsibility is 12. Full adult responsibility begins at the age of 18 years. Offences by those below the age of 12 are dealt with by the child welfare authorities or by the (civil) juvenile court. Also an offender between the ages of 12 and 18 may be dealt with outside of the criminal justice system.

In fact, many petty cases involving children are dealt with by the police authorities (acting in general with the consent of the judicial authorities but without formal legal jurisdiction). The majority of the more important cases are dealt with by a so-called "three-party-council" (the prosecutor, a police officer and a representative of the child welfare board). The council quite often moves the dismissal of the case without further consequences.

## II. Statistics

### II.1 Selected offences

Intentional homicide. The Dutch statistics do not distinguish between intentional and non-intentional homicide. The category of homicide thus includes murder, attempted murder, manslaughter, attempted manslaughter, and negligent homicide. For all those categories together, 1501 cases were reported during 1980. Roughly 90 % of all cases are estimated to be attempts. The rate per 100 000 in population was 16,0. The clearance rate was reported as 87 %. In 1980, 237 offenders were convicted.

The figures for the entire five-year period were as follows:

1975	998
1976	1 227
1977	1 149
1978	1 114
1979	1 250
1980	1 501

Assault. There were 13 409 assaults reported during 1980. The rate per 100 000 in population was 143. The clearance rate was reported as 74 %. In 1980, 4 168 offenders were convicted. There has been a constant and moderate increase from 1975 to 1980:

1975	9 591
1976	11 181
1977	11 463
1978	12 033
1979	13 407
1980	13 409

Robbery. The Dutch statistics contain the category of theft with violence. The figures for this offence are available since 1978, when 2 901 cases were reported. (Before 1978, the offence was included in the figures for theft.) In 1979, 3 287 cases were reported, and in 1980, 4243. The rate per 100000 in population (1980) was 45,3. The clearance rate was reported as 33 %. In 1980, 692 offenders were convicted.

Theft. 478 672 thefts (including minor offences) were reported in 1980. The rate per 100 000 in population was 5 112. The clearance rate was reported as 18 %. In 1980, 14 910 offenders were convicted. There has been a rather considerable increase in the number of thefts since 1975:

1975	330 820
1976	383 296
1977	387 909
1978	385 117
1979	413 259
1980	479 672

## II.2 Sanctions

According to Dutch penal law, petty offences are punishable by a fine or short-term detention. Negligent offences and willful offences are punishable by a fine, short-term detention or imprisonment. The minimum fine is 1/2 Dutch Guilder. The general maximum fine is open but, as a rule, it is fixed in the legislation covering the offence in question. Short-term detention ranges from one day to one year in most cases, with a maximum of 16 months in exceptional cases. A sentence of imprisonment can be imposed for life or as a determined sentence ranging from 1 day to 15 years, exceptionally up to 20 years. For all three basic penalties, the judge has the option of suspending the sentence. Particular penalties and penal measures are applicable to special offender groups. So-called psychopaths can be subjected to an indeterminate stay for treatment in special prisons or hospitals, such as the clinic in Utrecht.

In 1980, a total of 75 061 convictions was reported. The total number of persons convicted for penal code offences or the equivalent is reported as 67 559. 61 247 of these were adults and 6 312 were juveniles.

For adult offenders, 53 985 fines and 2 608 suspended sentences (probation) were imposed. The fine is thus overwhelmingly the most common sanction.

Even in cases where sentences of imprisonment are used, the clear tendency is to use very short (up to two weeks) or rather short terms (up to 1 or 2 months). The data on sentence length, however, follows a modified classification. The breakdown for offenders who have been sentenced to imprisonment during 1980 (15 369) is as follows:

less than one month	8 944 (58,2 %)
1 month, less than 3 months	2 541 (16,5 %)
3 months, less than 6 months	1 959 (12,7 %)
6 months, less than 1 year	1 104 ( 7,2 %)
one year	161 ( 1,0 %)
over 1 year, less than 3 years	485 ( 3,2 %)
3 years or more	175 ( 1,1 %).

The data on sentence length for those serving a prison sentence is not available. The total prison population, without specification of the date used, is reported as 3873 in 1980. Of these 3 744 were adults and 129 juveniles. Of the 3 744 incarcerated adults, 1 324 were awaiting trial and 2 385 were serving a sentence. The corresponding figures for juveniles are 93 and 36, respectively.

The Netherlands reports 51 prisons (7 for juveniles) all of which have under 500 prisoners. The total number includes remand centers. 33 prisons (64,7%) have a capacity of less than 100 places, 15 go up to 199 (29,4 %) and only 3 have between 200 and 500 places (5,9 %).

### II.3 Personnel and resources

The Netherlands reports the following personnel engaged in crime control duties in 1980:

26 902 policemen. The response estimates that 20-25 % of the total police work was devoted to criminal investigation duties in 1980. The total number does not include clerical or technical personnel.

188 prosecutors

364 professional judges

4 252 prison staff, of whom 143 were classified as management, 2542 custodial, 916 treatment and 615 "others". Part-time workers are excluded. Personnel of clinics for those prisoners who are ordered detained at Her Majesty's pleasure are also not included here.

According to the figures reported, the resources allocated to the various criminal justice agencies in 1980 was as follows:

police	1 362 000 000 USD
prosecution and courts	178 000 000
prisons	225 000 000
legal aid	75 000 000
child protection	253 000 000
department for aliens	5 000 000
insurance chamber and aid to	
the office of notary	5 000 000

(1980 mid-point rate 2.129 Dutch Guilders = 1 USD)

The above sums of expenditure exclude the expenditures for the Ministries themselves or for the real estate costs and the revenues. Police costs refer to state and municipal police, but not to military police and to private security policing. Prison costs include the costs for institutions (hospitals) for the criminally insane and the costs for the probation and parole services.

### III. Selected issues

**Policing.** The police of the Netherlands are engaged in various experiments focussed on crime control and on improving police - public relations. The response notes among the most significant problems facing the police are public order (the police policy is to concentrate on prevention), drugs (the police are concentrating on dealers of hard drugs) and property crimes, including vandalism.

**Victimization.** The Netherlands publishes an annual report entitled "Victims of Crimes", which is based on a representative sample survey. According to the 1980 report, 31% of the population aged 15 or over were the victims of at least one of the 16 types of offences dealt with in the survey. Men had a higher rate (33 %) than women (29 %). The victimization risk decreased with age, with the rate for those between 15 and 29 three times that for those over 65 years. The rate also increased with the degree of urbanization of the area of residence.

Of the crimes reported in the study, one third (33 %) were reported to the police. The proportion reported to the police increased with the age of the victim and with the seriousness of the offence in terms of injury and/or damage. The most important reasons cited for not reporting the offence were the triviality of the offence (39 %) and the fruitlessness of reporting (24 %). The report notes that the total number of crimes estimated on the basis of the study is 11 times higher than the number known to the police.

**Pre-trial detention.** The response to the Second United Nations Survey reports a significant decrease in pre-trial detention through the adoption of new procedural legislation in 1974. Furthermore, early intervention schemes have been created on an experimental basis in order to allow social workers to contact arrested persons already at the police station in order to prevent detention upon remand by providing information to prosecutors and judges.

In 1980, the average time spent in detention awaiting trial, between a formal charging of a suspect and the final disposition of the case, was reported as 10 weeks for all crimes recorded. It is to be noted that the police may hold detained and arrested persons only for a short period (9 hours). A specially qualified and legally-trained officer may extend the period up to two days. The prosecutor can then remand the suspect for custody up to 4 days, but,

after that time, the matter must be dealt with by a judge.

Corrections. In 1981, community service orders were introduced on an experimental basis as a new sentence, first for adults and then for juveniles.

Recidivism. For convicted persons in 1980, data is available on the number that had been previously convicted for one or more crimes (of any kind). When calculated in this way, it can be said that 57,1 % of those convicted of homicide had previous convictions for an offence. The corresponding figures for selected other offences in 1980 were: for assault 49,2%, for theft with violence 51,5%, for theft 45,5 % and for rape 47,6 %.

## NORTHERN IRELAND

### I. Background

The criminal justice system of Northern Ireland largely resembles that of England and Wales. For example, the courts in general are organized in accordance with the English model.

After the police investigation, the question of remanding for trial is generally dealt with by a justice of the peace. This authority may decide to remand the suspect pending appearance before a court of summary jurisdiction. Very occasionally this authority may commit defendants for trial to the Crown Court or deal summarily with certain specified minor offences on the consent of the defendant.

The resident magistrates have two principal functions in criminal cases. They try summary offences at petty sessions. They also act as examining magistrates in more serious criminal cases, for which the proceedings then continue before the Crown Court, where the trial is ordinarily a jury trial. The Crown Court also serves as the appellate level for decisions of the magistrates' court.

Decisions of the Crown Court may be appealed against to the Court of Appeal, from which further appeal lies to the House of Lords.

The minimum age of criminal responsibility is 10 years. Full adult responsibility comes at the age of 17 years. Cases involving youths are dealt with by a juvenile court, constituted of a resident magistrate and two persons, at least one of whom shall be a woman, selected from a juvenile court panel.

### II. Statistics

#### II.1. Selected offences

**Intentional homicide.** In 1980, 88 completed homicides and 264 attempts were recorded by the police. The number has decreased from 1975, when 240 homicides and 869 attempted homicides were recorded. The clearance rate in 1980 was 44,9 %. In 1980, 23 offenders were convicted.

**Assault.** In the "assault" category, the response to the Second United Nations Survey reports 5 recorded cases in 1980; the figures for 1975 through 1980 are in the same range. 457 offenders were recorded as convicted in 1980.

**Robbery.** In 1980, 966 robberies were recorded. The number has decreased considerably since 1975 (1 962) and 1976 (2052). The clearance rate in 1980 was 26 %. 211 offenders were convicted in 1980.

Theft. In 1980, 28 633 thefts were recorded. This is less than the figures for 1977 through 1978 (the peak was in 1978, when 33 151 cases were recorded), but somewhat more than in 1975. The clearance rate in 1980 was 21,5 %. 4276 offenders were convicted in 1980.

## II.2. Sanctions

In 1980, 4 689 non-custodial sanctions were used for adult offenders. The total included 1 813 fines, 587 cases of probation, 929 suspended sentences, 138 community service orders, 57 cases of limitation of liberty, 1 063 conditional discharges, and 104 attendance centre orders.

In 1980, 2 396 adults and 154 juveniles were detained in prison and young offender centres; this does not include those held in borstals or training schools. (The source of the data is the computer records and weekly prison population returns; the time of the data is not specified.) 355 of the detainees were awaiting trial. There were 2 041 sentenced adults and 154 adjudicated juveniles.

As of 1 July 1980, the break-down for those serving a sentence was as follows:

less than 6 months	61
between 6 and 11 months	94
between 1 and 5 years	588
over 5 years	1 080
life imprisonment	372

Northern Ireland had 5 prisons and 6 young offender centres (for those between 16 and 21) in 1980. One of the prisons and 5 of the centres had under 200 places.

## II.3. Personnel and resources

8 362 police personnel, excluding the RUC reserve. The police personnel includes 6 935 policemen. In 1980, there were 1 685 full-time persons and 2 533 part-time persons engaged in the RUC reserve. 15 % of police work is devoted to criminal investigation, 7 % to the special branch and 41 % to beat and patrol. The full time RUC reserve is primarily engaged in security duties, and the part-time reserve in beat and patrol.

35 prosecutors

45 professional judges, 204 magistrates and approximately 950 justices of the peace

2 755 prison staff, of whom 57 were classified as management, 2 368 as custodial, 234 as treatment and 96 as "other". In addition, the response notes that there is a wide range of volunteers engaged in both institutional and non-institutional correctional work. There

are also 104 members of Boards of Visitors of the various prisons; these Boards are independent bodies which oversee the management of the prisons.

The 1980 total budget for criminal justice activities was as follows:

police	380 000 000 USD
prosecution	5 000 000
courts	17 000 000
prisons	148 000 000
non-institutional services	5 000 000

(1980 mid-point rate .449 £ = 1 USD)

The budget for prosecution does not include the cost of police prosecution. The prison budget does not include the custody of those under 17 years.

### III. Selected issues

**Specific offences.** The response notes that 9 372 offences against public order, including hi-jacking and the unlawful taking of motor vehicles, explosives offences and firearms offences were recorded in 1980. The response also notes that the most significant problem encountered by the police is terrorism.

**Pre-trial detention.** The average time between the date of committal to the date of trial was 12 weeks in 1980.

**Parole.** In 1976, a conditional release scheme was introduced in Northern Ireland. All convicted persons now serving sentences of more than five days are eligible for up to 50 % remission of sentence for good behaviour. Under the terms of the Treatment of Offenders (NI) Order 1976, those persons released from sentences of more than one year may be ordered by the courts to be returned to prison for the remainder of the remitted sentence if they are convicted of an imprisonable offence during the time between their actual discharge and the end of their full sentence.



## NORWAY

### I. Background

In 1980 the main Norwegian laws in criminal justice were the 1902 Criminal Code and the 1887 Criminal Procedure Code. The former code is under revision, and Parliament has already adopted a new law on criminal procedure.

Investigations of criminal offences are handled by the police and very rarely by other authorities. Offences are formally divided into crimes and misdemeanours. Misdemeanours are offences carrying a maximum penalty of a fine or imprisonment for not more than 3 months.

When the police has evidence indicating the guilt of a certain person, the cases involving crimes are referred to the prosecutor, while misdemeanours are handled by the chief of police and his staff, who have a legal education.

Norway utilizes the opportunity principle in prosecution. However, this principle does not govern the work of the police except in the less serious cases of violations. The prosecutors (including the chiefs of police) have a wide power to issue "warnings" instead of charging the suspect before the court, especially in cases involving young people, or of setting a summary penalty (ticket) of a fixed fine. In the latter case, the defendant has the option of paying the fine or bringing the case to court.

The court system consists of district courts, courts of second instance and the Supreme Court. The courts of second instance are jury courts and act partly as second instance for cases from the district courts, partly as first instance in serious cases where the crime in question is subject to punishment with imprisonment for more than 5 years. The district courts also have lay judges as members.

Norway has no system of administrative courts. The administration of the police, and the prison and parole services is handled by the Government.

The age of criminal responsibility is 14 years. Most cases involving Penal Code offences committed by teen-agers are referred to the communal (municipal) child welfare boards through waivers of prosecution. The board members are appointed by the communal authorities. The system is part of the social welfare services and is subject to the Ministry of Social Affairs.

## II. Statistics

### II.1 Selected offences

Intentional homicide. In 1980 the police reported that they had completed the investigation of 32 cases of homicides. In the same year 24 persons were convicted of such crimes. The clearance rate is reported to be 97 %.

Assault. In 1980 the police complete their investigations on 4 309 cases of assault, which is a 16 per cent increase over 1975. The number includes only crimes, but not misdemeanours; there are no detailed statistics on the latter. The clearance rate for assault in 1980 was 59%.

Robbery. It is reported that in 1980 the police completed the investigation of 341 cases involving robbery and extortion. The clearance rate is 27 %.

Theft. In 1980 the police completed the investigation of 98 888 cases of theft. As noted above, there are no statistics on misdemeanours, and so this figure does not include petty thefts. Since 1975 the number of thefts has increased by 25 %. The clearance rate was 18 %.

### II.2. Sanctions

In 1983 there were approximately 148 174 cases decided by the courts or by the prosecutors (including by the chiefs of police). 13 147 of these were crimes and the rest misdemeanours. The courts handled 10 323 cases of crime and 9525 cases of misdemeanour.

Of the 148 174 cases, approximately 83 % resulted in fines, 4 % in probation, suspended sentences, referral to child welfare etc, and 7 % in unconditional imprisonment (10 552 sentences). Of these last mentioned sentences, 33 % were sentences to imprisonment of less than 6 months.

The number of persons detained in Norwegian prisons at the end of 1980 was 1 797. Of these 387 were awaiting trial and 1 368 sentenced to imprisonment.

In 1980 Norway had 40 prisons of which 36 had a capacity of less than 100 prisoners, 4 a capacity of between 100 and 199 and 2 between 200 and 499 prisoners.

### II.3. Personnel and resources

Norway reports the following data on personnel for 1980:

- 5 491 police staff, including 4 473 police officers
- 282 prosecutors (not including chiefs of police)
- 335 professional judges. No data is available on the number of lay judges
- 1 313 prison personnel, of whom 890 were classified as custodial and 32 as treatment.

The monetary resources were allocated in the following manner (1980):

police	214 000 000 USD
prosecution (excluding the police)	1 500 000
courts	35 000 000
prisons	50 000 000
community-based services	4 000 000

(1980 mid-point rate 5.18 NOK = 1 USD)

### III. Selected issues

Crime. The response states that new initiatives have been taken to curb the misuse of drugs and to check economic crimes (especially tax offences).

Length of proceedings. Information on the length of pre-trial detention is not provided for 1980. In 1977, the average time spent from the time of detention to final disposition in all cases is reported as 56,3 days. In addition, the response provides data on the average interval between the commission of a crime and the closing of investigations. For all offences, this average was 4,5 months.

Sentencing. It is pointed out that Norwegian law is quite severe in cases of drunken driving. In most such cases there will be a mandatory sentence of imprisonment (usually for 21 days). According to the most recent data (for 1983), 45 % of all persons admitted to prisons had been sentenced for drunken driving.

Recidivism. Recidivism rates for convictions are not tabulated. However, for those cases of crime (not misdemeanours) where the police considered a particular person guilty of the offence, the recidivism rate is tabulated. This was 41 % within a period of 3 years, with a maximum of 47 % of the age group between 14 and 17 years.

## POLAND

### I. Background

Poland's modern criminal justice system was shaped by legislation adopted between World War I and II. Its core consisted of the Code of Criminal Procedure of 1928, the Law of the Structure of the Courts of 1928, the Penal Code of 1932, and the Code of Transgressions of 1932.

After World War II the above Codes, in particular the Code of Criminal Procedure, were amended several times, and in 1949 a new court system was introduced. In 1969 the penal legislation was changed again: a new Penal Code, Code of Criminal Procedure, and Code on the Execution of the Penalties were adopted. This legislation entered force on 1 January 1970.

As a general rule, the investigation of offences is dealt with by the police under the supervision of the public prosecutor. In serious offences the investigation is conducted by the public prosecutor himself but even in these cases he may transfer it to the police and often does. There are also some administrative authorities, such as the tax, custom, forest, health and trade authorities, who have strictly limited investigative powers; they investigate a very small percentage of cases dealt with by the courts. The police operate under the supervision of the Ministry of Interior.

The final decision as to the termination of the preliminary investigation is made by the public prosecutor. He may decide to drop the case, mainly because no suspect could be traced or because of a lack of sufficient evidence. He may write the act of indictment and bring the case to the court. If the offence is not serious and the circumstances of an offence committed by a previously unconvicted offender are clear, he may also conditionally suspend the prosecution. This way of dealing with petty offences, introduced into the Polish legislation by the present Penal Code, is utilized in the case of some one fifth to one fourth of all the persons whose guilt has been considered established. The court may also decide to suspend prosecution conditionally. The latter alternative is rarer: in nearly 80 to 90 % of the cases where the prosecution is suspended, this decision is made by the public prosecutor.

For the great majority of cases the regional court is the court of first instance. In these cases the regional court is constituted of a panel of three judges: one professional judge who presides during the hearing and the sentencing, and two lay magistrates. The district court deals with very serious offences as well as appeals from the regional court. The Supreme Court serves as the appellate level for cases adjudicated in district courts as the courts of first instance.

All the professional judges as well as the lay magistrate are independent in the execution of their judicial powers. The budget for the courts is provided for by the Ministry of Justice.

The Polish criminal justice system adheres strictly to the legality principle, what means that there is the duty to investigate and prosecute all known offences and offenders. However, it should be noted that the Penal Code defines an offence as a socially harmful act prohibited by the criminal law. Such a definition provides some room for the de facto discretion of the police and the public prosecutor in deciding if an act which per se is trivial is a formal violation of the law, and should thus be labelled as an offence and proceeded against.

The minimum age of criminal responsibility is 17. However, in some circumstances a 16-year-old perpetrator may be tried in a court of general jurisdiction as an adult. The cases of younger juveniles who committed offences, or who are in need of care or protection, are dealt with by the regional family courts according to a special procedure.

Since 1955 the prison service has operated under the supervision of the Ministry of Justice.

## II. Statistics

### II.1. Selected offences

Intentional homicide. There were 641 cases of intentional homicide reported during 1980; 148 of them were attempts (23 %). Between 1975 and 1980 the number varied between 529 and 690, 20 - 34 % of which were attempts. In 1980, 277 offenders were convicted for intentional homicide. The clearance rate was reported to be slightly over 90 % for 1979 and 1980. (The clearance rate indicates the index of registered offences charged to suspects and proved.)

Assault. There were 21 027 assaults reported during 1980. This figure is about 26 % lower than the respective figure for the year 1975. It includes ordinary assaults, inflicting bodily harm, taking part in a fight or beating, and assault of a public officer while on duty. It does not include petty assaults in which the charge is brought to the court directly by the victim (complainant).

Robbery. The response notes that there were 200 - 300 robberies reported annually for the whole country for the years 1975 to 1980. (Somewhat higher figures are given in the 1978 and 1982 Statistical Yearbook of Poland for violations of articles 209, 210 and 211 of the Penal Code.)

Theft. There were 183 293 cases of theft reported during 1980. The number of thefts was very stable over the 1975 - 1980 period. The clearance rate was reported as 84 % and 81 % for the years 1979 and 1980 respectively.

## II.2. Sanctions

For all offences dealt with by the courts in 1980, a total of 106 983 non-custodial sanctions were used. The majority of these (58 053, or 54%) were suspended sentences of deprivation of liberty. 27 380 limitation of liberty sentences were imposed, of which 11 345 had the form of a community service order. Fines as a separate sanction were applied to 21 551 offenders (15 % of non-custodial sanctions).

Some information on the length of custodial sanctions can be derived from the data on the prison population. On 31 December 1980 there were 80 355 sentenced prisoners of whom 3 239 (4 %) were serving sentences of less than 6 months, 8 701 (11 %) between 6 and 11 months, 55 535 (69 %) between 1 and 5 years, 12 003 (15 %) over 5 up to 15 years, and 877 (1 %) were serving a sentence of 25 years of deprivation of liberty.

The total prison population on 31 December did not vary much over the years 1975 to 1980, and it stayed within the limits of 92 000 and 102 000, with the exception of the year 1977 when it was lower (81 360) due to the amnesty law introduced during this year. Most of the persons incarcerated were serving sentences of immediate imprisonment, some were serving arrest for transgressions, and some were imprisoned in default of payment of a fine. The persons remanded in custody accounted for about 16 to 20 % of the total prison population. Among the 95 696 persons in prison on 31 December 1980, 10 492 (11 %) were young adults (e.g. persons up to 21 years of age).

## II.3. Personnel and resources.

Poland reported the following personnel engaged in crime control duties on 31 December 1980:

policemen - data not available

2 943 public prosecutors. Some prosecutors were engaged in civil, administrative and crime prevention activities.

10 708 professional judges and 69 395 lay magistrates (as of 31 December 1982), both of which categories act in civil and/or criminal matters. Among the professional judges about 2 in 3 are females, and among lay magistrates about 1 in 3 are female.

prison staff - data not available.

## ROMANIA

## I. Background

The profound changes in Romania's economy and social structure, the continuing increase in the standard of material and intellectual life of all levels of the population and in their social awareness, and the nation-wide inculcation of a spirit of respect for the law and standards of social behaviour have established objective conditions capable of reducing anti-social behaviour.

Criminal justice policy and the strategy of crime prevention and control are an integral part of the overall policy of economic and social development. This ensures the harmonious development of all forms of economic and social activity. The state therefore takes planned economic and social measures to eliminate the causes of criminality and to eradicate and prevent crime.

Political and cultural measures and civil education, correct orientation of the human personality and the training and development of social awareness in a spirit of respect for the rule of law and human values play an important part in social development programmes. The punishment and re-education of all criminal offenders, as well as the improvement of the criminal justice system are proceeding in a co-ordinated manner.

Direct participation by the community in the prevention and control of law-breaking is a specific feature of Romania's criminal justice system, which forms part of a continuous and growing system taking many forms, such as the existence of civil courts, direct participation in the process of re-educating offenders serving non-custodial sentences and many others.

Romania has statutory judgment commissions which are civic organs having influence and jurisdiction which enable the masses to participate in establishing the rule of law and in the socialist education of citizens. These commissions are empowered to deal with offences involving little social danger and with labour disputes. One third of the cases submitted to the commissions are settled by conciliation and therefore do not go to court.

Either the court or the prosecutor can impose the following form of supervision, to run for a year, at the request of the general meeting of workers of the unit concerned (article 96 of the Penal Code): the supervision of workers by special teams drawn from the broad masses of the citizens of towns and villages in State and co-operative units in order to improve supplies and services to the population and enhance labour and socio-cultural conditions. At present more than 190 000 workers organized in 46 000 teams are engaged in this activity and have under them 149 000 units providing services (Law No. 6/1972 on the Organiza-

tion and Operation of Workers' Supervision).

## II. Information on offences and sanctions

Recent studies of crime trends show a continuing reduction in the extent of criminality and the absence of some types of major crime, such as organized professional crime, gang attacks on individuals, property and institutions, drug trafficking, kidnapping and political assassination.

The pattern of sentencing reveals an ever-increasing trend towards non-custodial sentences and the avoidance, as far as possible, of the serving of sentences in prisons. The preventive and educational function of the penalties imposed showed up clearly after 1977 when the possibility of performing non-custodial corrective work as an effective way of serving sentences of up to 5 years was extended. The offender is sent to work in a socialist unit in the same conditions as everyone else there but with some restrictions, such as some loss of earnings and a ban on leaving the locality without permission. Throughout his sentence the offender is in the care of a collective organization responsible for supervising his re-education.



## SCOTLAND

### I. Background

The most important legislation regarding the criminal justice system of Scotland include the Criminal Procedure (Scotland) Act 1975 and the Criminal Justice (Scotland) Act 1980. Children under 16 are dealt with in accordance with the Social Work (Scotland) Act 1968.

The minimum age of criminal responsibility in Scotland is 8 years. However, suspected offenders under 16 are normally dealt with in children's hearings before a panel of three persons, unless the offence in question is a serious one. Offenders between 16 and 20 years are considered young offenders. Full adult criminal responsibility is reached at the age of 21.

In most offences, the investigation is carried out by the police. In all serious offences, the investigation is carried out by the procurator fiscal. The public prosecutor has discretion over whether or not to prosecute in any criminal case. The police do not prosecute in any circumstances. The response notes that in practice most cases where there is sufficient evidence of guilt are prosecuted, although there has been a tendency during recent years towards greater application of the opportunity principle.

There are four principal procedures for adjudicating cases. Summary offences may be dealt with either by a magistrate or one or more justices alone, or by a sheriff alone. More serious offences may be dealt with by a sheriff and jury, or by a judge of the High Court and jury. The form of procedure is generally governed by the seriousness of the offence. A major distinction is between summary procedure and solemn procedure. In the former, which takes place before a sheriff, magistrate or one or more justices of the peace, there is no jury. In the latter, there is a jury trial, either before a sheriff or the High Court.

Breaches of the peace and specified petty offences fall under the jurisdiction of the district office, constituted by a stipendiary magistrate or one or more justices of the peace assisted by a legally qualified clerk. The maximum penalties that can be imposed by the district court are a fine of £500 or 60 days in prison.

The most important lower court, however, is the sheriff court, which has jurisdiction over cases not specifically reserved to the High Court. The sheriff court is empowered in general to impose, in cases of indictment, a fine or a maximum of imprisonment for two years, and in summary cases a fine of £1 000 or a maximum of imprisonment for three months. These latter limits may vary if there are previous convictions or the applicable provision accords wider or more limited powers.

Appeals from the district courts or the sheriff courts lie with the High Court, which also has exclusive jurisdiction over the most serious offences such as murder and rape.

Accused persons charged with serious crimes and detained in custody must by law have their cases brought to trial within 110 days of the date of committal to prison. Those released on bail must have their cases brought to trial within one year of their first court appearance.

Those charged with lesser crimes and who are detained in custody must by law have their cases brought to trial within 40 days of their first court appearance.

In the case of children accused of crime, the police may refer the case to the procurator fiscal (the public prosecutor) for court proceedings, refer the matter to the Reporter, or warn the child orally at the police station. The procurator fiscal, in turn, may decide to either prosecute or not prosecute; in the latter case he may take no action, warn the accused or refer the matter to the Reporter. This latter official may bring the matter before the local panel for a children's hearing, where the procedure is considered to be civil proceedings.

## II. Statistics

### II.1. Selected offences

Intentional homicide. 338 cases of homicide were reported in 1980. The clearance rate was 95,9 %. In 1980, 61 offenders were convicted.

Assault. 3 966 cases of assault were reported in 1980. Due to a revised classification adopted in 1980, the figure cannot be compared with earlier years. The clearance rate in 1980 was 59,8 %. 1 649 offenders were convicted in 1980.

Robbery. 3 723 robberies were reported in 1980. The clearance rate was 22,1%. In 1980, 496 offenders were convicted.

Theft. 257 562 thefts (including minor thefts) were reported in 1980. The clearance rate was 25,1 %. In 1980, 30 493 offenders were convicted.

### II.2. Sanctions

In 1980, the courts of Scotland imposed 31 427 fines and 1779 probation orders. Other sanctions imposed included 230 community service orders, 6 098 admonitions or cautions, 253 absolute discharges and 7 897 custodial sentences.

The prison population is reported as an average for 1980. During the year, there were an average of 4 860 detained

prisoners, of whom 554 were awaiting trial and 4 219 were serving a sentence. 64 offenders were serving an indeterminate sentence at Her Majesty's pleasure. The break-down for those serving a sentence in prison or in a young offenders' institution was as follows:

less than 6 months	1 089
6 - 18 months	640
18 months - 4 years	588
over 4 years	746
life imprisonment	349*

(\* includes those detained at Her Majesty's pleasure)

Scotland has 23 prisons, of which 10 are intended for juveniles. 16 of these have a capacity of under 200 places.

### II.3. Personnel and resources

16 828 police personnel. Of these, 13 190 are police officers (excluding civil staff). The response notes that some 10 % of the total strength figure comes under the heading of criminal investigation department. 76 % are engaged in operational duties.

204 prosecutors

131 professional judges, 95 of whom dealt with criminal cases full time and 36 part-time. In addition there were between 400 and 500 honorary sheriffs

2 637 prison staff (1979 data), of whom 80 were classified as management, 2 276 as custodial and 6 as treatment.

The resources allocated to the various services in 1980 was as follows

police	370 000 000 USD
prosecution	21 000 000
courts	12 000 000
prisons	67 000 000
non-institutional services	3 000 000
LA services for offenders	19 000 000 (est.)
children's hearings	5 000 000 (est.)

(1980 mid-point rate .449 £ = 1 USD).

### III. Selected issues

**Policing.** The response notes as the most significant problems currently faced by the police to be the following: rising levels of crime, public apathy to crime prevention, the involvement of young people in crime, and drug abuse. The response notes that there is an increased awareness in all sections of the community that the police can only operate effectively if the public play their part in assisting the police and in taking sensible measures to prevent crime.

**Pre-trial detention.** The response reports the average time spent in detention awaiting trial to be at most 3,5 months.

## SPAIN

### I. Background

The present Criminal Code of Spain is from 1944. As a result of the political and social development since that time the code has been amended several times, and in 1963 and 1983 has been partially revised. A new criminal code is under preparation.

In principle it is the duty of the courts and the prosecutors to take the initiative in investigating criminal offences, but in practice the initiative lies with the police (the Guardia Civil).

The Guardia Civil is organized as a semi-military organization responsible primarily for peace and order. It also carries out ordinary police work.

The criminal justice system operates in accordance with the principle of legality. However, the prosecutor may use some discretion.

The age of criminal responsibility is 16 years. Full adult responsibility comes at the age of 18.

### II. Statistics

#### II.1. Selected offences

Intentional homicide. 310 cases were reported in 1980. The number has doubled since 1975, with the steepest increases from 1978 to 1980. The clearance rate in 1979 was 65,0 %.

Assault. The number of reported cases in 1980 was 13 190, a considerable decrease from the figure for 1979. The clearance rate in 1979 was 54,4 %. The classification was changed somewhat in 1980. The number of reported assaults has developed as follow:

1975	9 818
1976	10 971
1977	13 667
1978	15 751
1979	17 007
1980	13 190

Robbery. In 1980 the police recorded 27 442 cases of robbery. The clearance rate for 1980 was 18,9%. According to the information given, robbery has shown a steady increase since 1975 when only 4 501 cases were recorded. The increase was most notable from 1978 (14 728) to 1979 (25 720).

Theft. In 1980, 314 705 cases of theft were recorded. This includes petty offences. The clearance rate in 1979 was 14,7 %. The figures indicate a steady increase up to 1979:

1975	136 178
1976	180 141
1977	229 891
1978	282 454
1979	350 939
1980	314 705

## II.2 Sanctions

In 1980 112 426 persons were apprehended for penal code offences. Data on the number of adjudicated persons is not available.

According to the break-down by reason for detention and age, the total number of adults serving sentences in prison in 1980 was 6 435. In addition, there were 7 582 adults in pre-trial detention and 582 "other" adults in prison. At the same time, there were 1 023 juveniles serving a sentence and 2 502 juveniles in pre-trial detention.

For the 7 458 persons serving a sentence in 1980 (6 435 adults and 1 023 juveniles), data is also provided on the length of the term of imprisonment. In 951 cases, the sentence was up to 6 months. In the majority of cases, the sentence was either between 6 months and 6 years (3 687) or between 6 and 12 years (1 879).

Spain had 79 prisons in 1980, of which 2 had a capacity of more than 1 000 inmates, 7 between 500 and 999 inmates, 36 (including 4 for juveniles) between 200 and 499 inmates and the rest, 34 prisons, less than 200 inmates.

## II.3 Personnel and resources

(data on the number of police is not available)

287 prosecutors

(data on the number of judges is not available)

4 695 prison personnel, of whom 1 349 were classified as management, 2 828 as custodial and 155 as being engaged in treatment

No data is available on criminal justice system expenditures.

## SWEDEN

### I. Background

The basic laws of Sweden in the field of criminal justice are of relatively recent origin, the Code of Judicial Procedure from 1942 and the Penal Code from 1962. In addition certain changes in the handling of cases concerning juveniles were introduced in 1980.

It is a historical tradition in Sweden that the execution of the authority of the State is vested in special offices, bureaus or authorities outside the ministries. The ministries (e.g. the Department of Justice) which are in charge of planning and budget to be presented to the Parliament, have no power to intervene in the daily work of these authorities. In the field of criminal justice the authorities of particular relevance are the Police Board, the Chief State Prosecutor, the Prison Board and the Social Welfare Boards. While the last mentioned authorities are organized on a municipal basis, the others are state authorities. With the exception of the Chief State Prosecutor, all authorities are headed by committees consisting both of representatives from the authority itself and of appointed members from outside the authority.

The ordinary court system, which also is independent of the ministries, has three instances (district courts, courts of appeal and the Supreme Court). There are no juries, but in the first two instances lay judges participate on an equal footing with the professional judges. In addition there is an administrative court system which may be involved in certain criminal cases concerning juveniles and addicts.

Swedish law makes no distinction between felonies and misdemeanours. If the laws state that a certain behaviour is punishable, then this behaviour is called a "crime" ("offence").

In principle, the police and the prosecutor have a duty to proceed whenever there is enough evidence against a suspect, but there are so many exceptions to this, that it is somewhat doubtful whether one can say that Sweden has a legalistic or an opportunity based system.

Practically all cases are handled by the police. If the investigation leads to a particular person being suspected of a crime the further handling of the case depends upon the age of the offender and the seriousness of the offence. If the suspect is under 15 years of age the case is sent to the municipal social welfare board. If the suspect is above 15 years of age and the offence is a petty one which according to law may lead only to fines, the police officer may give a warning or issue a "ticket" with fixed fine to be paid. In more serious cases the police takes the case to the prosecutor. If the outcome will only be a fine, the prosecutor may suggest in writing to the suspect that the

latter admits his guilt and pays a fine (summary penalty). In other cases the prosecutor may choose to charge the suspect before a court, or (especially in the case of youths between 15 and 18 years of age) waive prosecution and instead give a warning or refer the case to a municipal board for further action according to administrative laws.

## II. Statistics

### II.1. Selected offences

Intentional homicide. In 1980, 394 cases of intentional homicide were reported. This is a 34 % increase over 1975. The figures includes both murder, manslaughter and assault leading to death of the victim. Of the cases reported in 1980 55 % were cleared up the same year. 93 persons were convicted of homicide in 1980. No case of infanticide was reported.

Assault. In 1980, 24 668 cases of assault were reported. This is a slight increase (14 %) over 1975. The figure includes all assaults with the exception of those directed against a police officer and those which have led to the death of the victim. Of the cases reported to the police in 1980 59 % were cleared up the same year. The total number of persons convicted was 4 828.

Robbery. In 1980 3 427 robberies were reported, which is an increase of no less than 46 % over 1975. The clearance rate for the robberies reported in 1980 was 25 % within the year. The total number of convicted persons was 479.

Theft. A total of 514 130 thefts was reported in 1980. The figure includes petty thefts (primarily shoplifting; 35 000), thefts (the "borrowing") of cars (34 000) and of bicycles (83 000) and burglaries (139 000). The total number of thefts has increased by 10 % over 1975. Before the end of 1980, 16 % of the cases reported to the police within the year had been cleared up. The total number of persons convicted was 29 577, which is approximately the same number as in 1975.

### II.2. Sanctions

In 1980 the total number of convictions was 388 589, of which 71 855 were convictions by courts of law, 202 559 were fines imposed by the police (primarily for traffic violations), 94 544 were summary penalties by the prosecutors, and 19 631 were decisions ("warnings" etc.) not to prosecute made by the prosecutors.

As to the actual measures used, fines were by far the most common (80 %). Of these 2/3 were fixed penalties for traffic violations and the rest fines for more serious offences where the fines are fixed according to the day-fine system. The rest of the measures can be divided into two,



those leading to incarceration (imprisonment) and those which do not (probation, suspended sentence etc). Imprisonment and other types of incarceration were used in approximately 13 000 cases, while other measures were used in approximately 21 000 cases.

In 1980 12 272 persons sentenced to imprisonment were admitted to Swedish prisons. Of these persons 74 % had been sentenced to imprisonment for less than 6 months, 15 % for 6 months up to 1 year, and 11 % for 1 year and more. The percentage of women was only 3.2, and the absolute number of persons between 15 and 18 years of age was 26. The prison population as of 1 November 1980 was 4 045.

The figures above do not include persons arrested and/or awaiting trial. In Sweden all suspects who are detained by the prosecutor for further questioning or by the courts awaiting trial, are immediately transferred by the police to the prison authorities. The total number of these persons was 35 911. No reliable statistics exists showing how long they are detained. However, those who are sentenced to imprisonment will have the time they have been incarcerated (counted from the day of arrest) deducted from the prison sentence.

Sweden reports 72 prisons operating in 1980. Of these 61 had a maximum capacity of less than 100 inmates. All the rest had less than 500.

### II.3. Personnel and resources

For 1980 Sweden reported the following personnel working in the criminal justice system:

15 850 police officers and 4 365 other persons in administrative work attached to the police

608 prosecutors

1 000 professional judges (est.)

7 500 lay judges (est.)

5 291 prison and parole personnel, of whom 3 252 were classified as custodial and 774 treatment.

The resources were allocated in the following manner:

police	889 000 000 USD
prosecution	44 000 000
courts	234 000 000
prisons	232 000 000
community-based services	38 000 000

(1980 mid-point rate 4,373 SEK = 1 USD)

### III. Selected issues

Crime. The response notes that alcohol and drug related crimes are a matter of concern.

Punishments. A characteristic feature of the Swedish system is that imprisonment is avoided where possible and that the length of such sentences should be shortened. The response stresses the importance of non-institutional treatment by means of both professionals and laymen.

A noticeable feature of the criminal justice system is the low figure of persons serving sentences in prison for default of payment of fines. Bearing in mind that the annual number of fines was approximately 300 000 it is remarkable that only 49 persons were ordered to serve a sentence for default of payment.

Recidivism. Special studies on recidivism are cited in the response. Generally, recidivism within a five-year period is highest for those who have been sentenced earlier for crimes against narcotics legislation (85 %) and for property crimes (79 %), while first-time offenders who have committed these crimes had a lower rate of recidivism (56%, as opposed to 43 %). There are only small differences in recidivism rates according to the type of crime for those who have been sentenced earlier. Of the first-time offenders, those with fines or conditional sentences had a recidivism rate of 24 to 30 %, while those sentenced to imprisonment in excess of one month had a recidivism rate of about 45 %.

## YUGOSLAVIA

### I. Background

Following the joining of the peoples of Yugoslavia under a single state in 1918, a new, uniform law on penal procedure came into effect in 1930.

After the Second World War, a new Code of Penal Procedure came into effect in 1948. This had been compiled under the influence of the Soviet procedural penal law codification. However, the need for reform was soon felt, and a new law on penal procedure was issued in 1953. It represents a partial return to the legislation of 1930. Several amendments followed, among which the most important was the amendment of 1967.

In 1974 a new constitution was adopted. The consequent changes in the organization of legislation, in state administration and in the self-management system were such that the Code of Penal Procedure had to be brought into line with it. Its basic tenets, however, have remained the same as promulgated in the amendment of 1967.

A Penal Code uniform for the entire territory of Yugoslavia came into operation in 1930. After the Second World War a law issued in 1946 cancelled the validity of former legislation with the exception of those provisions that did not conflict with the Constitution. In 1948 the general part of a new Penal Code compiled under the influence of the Soviet penal law came into operation. Again, however, a need for reform was soon felt, and work began in 1948 on a new Penal Code, which was then issued in 1951. A gradual introduction of changes followed up to 1960. Among these the most important is the amendment of 1959. This amendment was brought about to a large extent under the influence of the movement for social defence. It brought more up-to-date provisions on the treatment of minors, a reduction of maximum prison terms and abolishment of life imprisonment. Seven more amendments followed in subsequent years.

The changed constitution of 1974 led to the need for an adaptation of penal codification. Partial decentralization of penal law was introduced, and thus in 1977 six republican and two regional Penal Codes came into operation in addition to the Federal Penal Code, especially its general provisions.

Though federal legislation permits differences in the incrimination of offences, this possibility has so far not been used to an appreciable extent.

Penal sanctions are also included in the legislation covering disciplinary offences in working organizations, economic offences and provisions on misdemeanors. The principle "non bis in idem" is acknowledged, but this means that minor offences can be treated under the above mentioned

legislation.

After 1945 the police had relatively wide prerogatives. These were gradually modified, especially in the penal procedure reform of 1967. Today, the primary task of the police is to detect the criminal act, discover the offender and secure the evidence. Their interrogation and minutes may not be used in court proceedings. Detention ordered by the police should not exceed three days.

The role of the public prosecutor was dominant up to 1967. In addition to being responsible for bringing charges against the offender, the prosecutor also ordered and conducted inquiries and other investigatory acts. After 1967 the majority of these tasks were transferred to the investigating judge (except in the case of summary procedure). Although the prosecutor must act in accordance with the legality principle, he may discontinue the prosecution if the criminal act is found to be of insignificant social danger (limited discretion). In such cases the injured party can continue the prosecution. In addition, some criminal offences, especially less grievous ones, can be prosecuted by way of private charge.

The institution of the investigating judge, who acts within the framework of the court, was enacted already in 1930. After 1945 it was abolished and the public prosecutor took over and conducted investigations up to 1954. Thereafter the investigating judge began to assert himself again and in 1967 his function as investigator was established.

The defense counsel has the right to take part in all investigatory activities. However, this right does not cover the so-called pre-trial proceedings carried out by the police. The period between detention and the pressing of charge may not exceed six months. After the filing of charges as well as during appellate proceedings, the senate can prolong detention. In such cases, the detention may last if necessary to the entry of the legally valid judgment into effect.

At main trials the courts sit in panels consisting of judges and lay assessors. The presiding professional judge has a dominant role and there is no cross examination. At no phase of the criminal procedure is the defendant required to inculcate himself.

The minimum age of criminal responsibility is 14. Full adult responsibility comes at the age of 18.

## II. Statistics

### II.1 Selected offences

Intentional homicide. 1 340 cases of intentional homicide were recorded in 1980. This includes murder, manslaughter and infanticide. The clearance rate (1979) was 93 %. In

1980, 729 offenders were convicted. The average time spent in pre-trial detention was 16,3 weeks.

**Assault.** 16 950 assaults were recorded in 1980, including grievous bodily injury, light bodily injury and participation in a brawl. The clearance rate (1979) was 98,7 %. 14 063 offenders were convicted. The figures for reported assault do not include the majority of light bodily injuries, which can be prosecuted by way of private charge. However, these cases have been included in the number of convictions. The average time spent in pretrial detention was 4,7 weeks.

**Robberies.** 1 009 robberies and aggravated robberies were recorded in 1980. The clearance rate (1979) was 98,3 %. In 1980 380 offenders were convicted. The average time spent in pre-trial detention was 9,4 weeks.

**Thefts.** 87 527 thefts (including thefts, aggravated cases of theft and thefts in the nature of robbery, but not including petty thefts) were recorded in 1980. The clearance rate (1979) was 46,5 %. In 1980 17 628 offenders were convicted. The average time spent in pre-trial detention was 10,1 weeks.

## II.2. Sanctions

For all offences dealt with in court in 1980 the following non-custodial sanctions were used: 38 346 suspended sentences, 36 964 fines and 2 177 judicial reprimands.

The total prison population is reported as of December 31 1980. At this date there were 15 574 incarcerated adults and 92 juveniles. In addition, there were 909 juveniles in correctional institutions. No data is available on the number in pretrial detention.

No data is provided on the number of prisons.

## II.3. Personnel and resources

No data is available on the number of policemen, prosecutor or prison staff. In 1980, Yugoslavia had 4 929 judges and 57 152 lay assessors, all responsible for criminal and civil affairs.

## III. Selected issues

In 1977 the penal legislation was changed. The single penal code used up to that year was replaced by 9 penal codes. At the same time, a reorganization of the courts took place. The period from 1975 to 1980 was under the influence of these changes. The decline in the criminal acts in this period is therefore not necessarily representative for the general trend of criminality in Yugoslavia.

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