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PROBLEMS, MEANS AND METHODS OF POLICE ACTION
IN THE FEDERAL REPUBLIC OF GERMANY

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Problems, means and methods of police action in the Federal Republic of Germany (FRG).

Criminalistic pat solutions or infallible models for action do not exist. One can only set up general principles, offer empirical knowledge in the form of aids to decision-making, and discuss suggested solutions for particular operational situations and particular problems.

Basically, the police are always called upon to solve the situation by employing their own, that is to say police, resources. But this already may involve problems of a most difficult nature, especially when police leaders are deprived of the initiative or the making of decisions, either temporarily or within certain fields of decision-making, on the grounds of overriding political considerations, be it that foreign policy requires a certain course of action to be taken, or that political influence is being exerted from abroad (which may even take the form of gentle pressure), or in the presence of domestic considerations or necessities (public opinion, factors of social policy, etc.). In all those cases, all that police leaders can do is to make consistent and unswerving use of conventional and tested, as well as of newly and empirically gained, principles and knowledge in the field of police tactics and police strategy in those areas where they are still able to decide for themselves. It is now proposed to discuss briefly those points which we have found to be the most important ones, looking at the tasks and problems involved.

There is no doubt that the supreme rule governing all police action and decisions is to protect the lives of the hostages; this means that the principle not to endanger human life has absolute priority over the necessities of law enforcement. Several incidents that occurred abroad and the way they were handled have shown, however,

that there may be -- and must be! -- exceptions to this fundamental rule for overriding reasons of state policy. Should the Federal Republic ever be blackmailed in an unacceptable way, reference must be made to the declining attitude which the Federal Government adopted on the occasion of the cruel assault of politically motivated violent offenders directed against the diplomatic representation of the FRG in Stockholm in February 1975.

Regarding the process of decision-making on the part of the police, the fact that in all relevant cases the offence is still in the course of being committed when the first action is to be taken has again and again been found to be particularly tricky and disadvantageous. An error or failure to act, especially in this phase of the incident, may have literally fatal consequences which it is afterwards impossible to undo; it is therefore imperative that this be always kept in mind and that all action and all decisions be planned and ensue with utmost caution. It is not infrequent that the offenders threaten to kill hostages and thus compel the police to passivity or almost complete inaction, which implies the loss of most valuable time urgently needed for clearing up the matter or securing evidence. Therefore, in these phases, pre-set comprehensive preparations must in every possible way be made, so that the whole police machinery can be massively and successfully set to work once police leaders have regained full freedom of action.

Often, police activities are rendered more difficult by a negative or irresolute attitude on the part of the relatives of, or those responsible for, the hostages, by opposing police intervention or -- for fear of incurring an additional risk for the hostages -- by not calling the police in time or by informing them only incompletely about the facts of the case. However, in such cases there must be no doubt that the police remain under the obligation to do all they can -- although under the best possible camouflage for their activities and with utmost caution -- to employ their own means so as to free the hostages, clear up the case, and have the offenders punished -- if need be, against the will of the relatives or those responsible.

Certainly, in all relevant cases reaching a certain level of impact -- be it as a result of the incident itself, or because of spectacular effects on the public -- it is indispensable to have an operation control team with a staff of leaders and -- depending on the requirements of the particular case -- a number of working groups or specialist teams. No complete enumeration of services which may be needed in this context can be given here; instead, some important experiences shall be mentioned that have been gained in the FRG during the past few years.

As it is practically always impossible to make an accurate estimate of how long a large-scale operation will take, it is necessary that all decision-making, coordinating, and liaison bodies and posts within such an apparatus be manned around the clock and always have at their disposal a complete stock of the latest information available, thus ensuring that instant decisions can be made at any time, including night-time (such as responses to demands or action on the part of the kidnappers, resumption of contacts established, etc.). Friction in the gears of the operation control apparatus, and delays thereby caused, are liable to start inadequate developments that are impossible to rectify afterwards. The setting up of an information room to which all intelligence and all information is centrally channelled on a permanent basis for processing and distribution to all personnel involved has been found to be particularly useful in such operational situations (for example, permanently updated situation reports, statements on the development of the case, summaries of measures taken and their respective success); like this, one can avoid a situation in which leaders of individual specialist teams make decisions or take action which in view of the whole situation might turn out to be out-of-date, or even rash or detrimental, under the aspect of overall strategy. At the same time, it is necessary for such a police apparatus, which often is a motley assembly of members from different police units and therefore constitutes a highly unhomogeneous machinery, to ensure that all working groups and specialist teams be immediately and comprehensively informed of any decisions made by the operation control staff and that, vice versa, all intelligence developed by these units be promptly and entirely channelled to the control centre. On the other hand, it must also be guaranteed that all confidential information, action planned, and operational plans meant for official use only will in fact be kept secret and will not, through neglectful handling, become known to persons outside the police, especially to press reporters. Too often already, rash press publications have seriously jeopardized the success of painstaking preparatory work.

In the event that not only local units of the detective, and uniformed, police forces are deployed but also officers from neighbouring, or non-police, forces, a well-defined chain of command is indispensable in order to avoid a confusion of orders and authority. It is clear that operations of that nature often involve difficulties in the relations with the public prosecutor - who under German law is the "master of the procedure" - especially when it comes to decisions in the field of police tactics and coercive measures (e.g., firing shots that are meant to kill); however, appropriate, that is to say pragmatic, solutions must be found for such problems within the framework of valid norms. Where police forces from various federal states and border police units or police cadet units are deployed together, it is necessary for the operation control staff to inform themselves in time on organizational structures, equipment and weaponry available,

and level of training, so as to avoid potential mishaps and setbacks in operation. Such considerations must be made, particularly when there is an intention to use helicopters, armoured vehicles, special equipment, precision firing teams or mobile operational units (details on these specialized units will be given later on).

Experience has shown that hostage-takers and kidnappers essentially make the following demands: do not call in the police or the press, pay a certain amount of ransom, and observe certain modalities when handing over the ransom. In case of the hostage-takers being in direct or indirect contact with the police, they normally demand to be granted safe-conduct and to be given escape vehicles as an additional condition for releasing the hostages. There are no objections to pretending to accept the kidnappers' demands. But apart from the fact that some of the additional demands that are sometimes made are downright impossible to fulfil (e.g., separation of a part of the country from the rest of the national territory, revocation of inalienable constitutional rights, humiliation of a government, etc.), there would be a great risk of escalation of this most brutal form of crime if the offenders could be generally sure that the police will strictly abide by the concessions forced upon the authorities. This also holds true entirely for the granting of safe-conduct which is demanded regularly.

Another essential objective which the police must aim at is to maintain contact with the kidnappers once it has been established, and in the course of negotiations to obtain above all an exchange of the hostages for money, without (if possible) making advance concessions. At the same time - and especially if there are no other sources of information - the police, while negotiating, must endeavour to learn significant details on the number of offenders, their weapons, the number and condition of the hostages (children, women, infirm persons) and the whole background of the incident, in order to be able to make a valid assessment of the situation, identify the offenders, draw up a psychological profile allowing one to analyze their personalities, and anticipate their actions and reactions. All experience gained so far goes to show that, especially in the initial hectic phase of events, it is appropriate to avoid affective or aggressive acts on the part of the offenders by seemingly complying with their demands and showing understanding for their specific situation, to try to gain time, and finally to practice delay tactics designed to tire and wear down the kidnappers. At the same time, it must be attempted to take over the initiative unnoticeably, and to aim at a clear and carefully prepared solution without, however, ever being at a loss for an equivalent alternative solution which could flexibly be adopted in case of a setback. In all those efforts, a mediator, if he is accepted by the hostage-takers, can be of great help. However, experience has shown that this may involve unpleasant surprises as well, for instance when the mediator after establishing contact with

the offenders invokes his professional secrecy — or an alleged secrecy he claims to have title to — and thereby, at least temporarily, impairs the work of the police (e.g., lawyer in the Luhmer case).

Among other possibilities, the making available of "substitute hostages" has been discussed and practiced in the FRG. As a general rule, this method does not appear to be an adequate means for putting an end to the situation; above all it does not improve the position of the law enforcement authorities. In one case of hostage-taking in Cologne in 1971, two senior police officers volunteered as substitute hostages for the offenders, and it was not least thanks to their assistance that the incident could be brought to a good end. Apart from the fact that the hostage-takers themselves generally do not go for substitute solutions of that type, such an intermediate solution is not a suitable model to follow; not the least reason for this is that — as is also the case when top politicians act as substitute hostages — the police (and in the case of the top politician, the government) too easily could get into a delicate situation, and in extreme conflict situations could have their freedom of action and their freedom of decision curtailed.

Another delicate problem of its own in all major cases of kidnapping or hostage-taking is the behaviour of the press. In spite of all legitimate shielding efforts on the part of the police, it often turns out to be practically impossible to evade the onslaught of the reporters and their detective instinct when hunting for sensational stories. In extreme cases, reporters have been known to literally siege the operation control centre permanently and sometimes even to keep watch on and follow members of the emergency staff, annoying them day and night only in order to obtain the latest information. In one case, such improper behaviour even made the offenders believe some busy press photographers to be police observers, whereupon they disappeared from the scene; and press reports published against the will of the police caused the kidnappers to call the press and communicate information designed to mislead the police (the Luhmer case). This state of affairs, which often leads to an intolerable strain on the officers in charge or on officers performing special tasks, can only be countered to some extent by setting up a press room staffed with a press liaison officer specially commissioned for that purpose by the operation control team and closely cooperating with them. If the flow of information is sparse, some press reporters must be expected to cause all kinds of trouble, possibly even including the threat to bring into play their good relations with persons having political influence if additional information is further denied. Extremely extraordinary circumstances have to be put up with by the police leaders and officers involved in the operation if — as it happened for instance in the case of the top candidate of the Christian Democratic Party, Lorenz, who was kidnapped just before the 1974 Berlin state elections — the kidnappers demand television time

for their political agitation and the demand has to be met, thus making the mass medium television become the immediate stage of events for the entire population of the FRG and a large part of the neighbouring countries. The task of keeping a level head then, in the face of reactions and emotions of all types, calming the turmoil of indignation, and at the same time remaining in control of the situation, no doubt is a psychological test of endurance that can hardly be surpassed.

Out of the numerous and manifold conclusions that have been drawn on the basis of the experience gathered in the FRG during the past few years, it is now proposed to discuss briefly at least some of the most important ones.

Normally it is impossible to foresee who will take whom hostage, nor when and where; experience goes to show, however, that in order to operate successfully, the kidnappers have to make most diverse preparations (e.g. selecting the victim or target; studying the victim's behaviour, habits, and professional activities, or the nature of the target; obtaining weapons, ammunition, identity documents, vehicles, and other means for carrying out their plan; renting flats or hide-outs to be used as store-rooms or strategic points of support, for observation purposes or accomodating the hostage, e.g., the converted basement of a rented shop in the Lorenz case). As such preparative work is generally carried out not only on a local, but also on a supraregional, and sometimes even international, basis, a central facility for collecting all relevant information has been created within the Federal Criminal Police Office at Wiesbaden, where immediate analysis of all incoming information, as well as appropriate processing of intelligence developed, takes place. As far as legislation is concerned, this situation has been taken into account by an amendment to the Law on the Establishment of the Bundeskriminalamt of June 29th, 1973, providing that the Bundeskriminalamt shall be the central information and communications agency for the police in Germany and handle the exchange of information within ICPO-Interpol. This law also authorizes the Federal Criminal Police Office to assist the Federal states in any way, through its own specialists and specialist facilities (in particular the Forensic Science, Criminal Identification, and Research departments), and to take enforcement action itself in certain cases of politically motivated delinquency. These provisions meant considerable progress in the close, and good, cooperation between police agencies on the Federal, and State, levels in the FRG. Practical experience has already shown that this cooperative system is a very good one, for instance in the prosecution and destruction of the hard core of the Baader-Meinhof gang and of the "Movement of the 2nd of July", a group sympathizing with the Baader-Meinhof gang and responsible for the Lorenz kidnapping.

In order to be in a position to plan, and carry out, joint operations of Federal, and State, police forces in a uniform manner, a permanent "regulations commission" has drawn up uniform service regulations for all German police forces to be observed in cases of kidnapping or hostage-taking; these were introduced with the Federal, and State, police forces in October 1973. These regulations govern the chronological preparation of such operations, immediate measures to be taken, and, in general, the tactics to be pursued by the police. They thus guarantee that police operations taking place in more than one area of jurisdiction or involving neighbouring police forces will be carried out along identical lines. But they also contain general principles, as well as detailed information, on measures to be taken in relevant cases and in particular in such incidents involving air-planes.

Experience gained in the FRG has led to the conclusion that when dealing with cases of serious crime involving the taking of hostages, particular importance must be attached to the use of a "negotiating team" whose task it is to operate in the forefield, so to speak, between the operation control staff and the hostage-takers. For some considerable time already, seminars for the training of such negotiating teams have been organized in Bavaria, and they are now also being held at the Federal Criminal Police Office and in other Federal states, or will be started shortly. In the main, the negotiating teams have the following overall mission: establish contact with the offenders, and conduct negotiations along the lines determined by the operation control staff, with the objective of "psychologically" defeating the offenders; try to gain time, delay, identify the offenders and study their personalities, particularities, and specific behaviour; obtain release of the hostages; make the hostage-takers give up their plan. In addition to detective officers acting as negotiation leaders and spokesmen, the teams include psychologists having police experience.

With a view to operational deployment, both the Federation and the Federal states have created specialized police units trained and equipped to deal with kidnappings and hostage situations. These units include:

"Mobile Operational Units": their main tasks are detective ones, and their working methods are largely the same as those of a State Investigative Team (collection and analysis of background knowledge, observation, ensuring an optimum of enforcement action directed against the perpetrators);

"Special Operational Units": their task essentially is to save the lives of persons endangered by violent criminals and to apprehend the offenders (for example by a serried advance - either open or concealed - and by coercive measures or a surprise attack);

"Precision Firing Units": their deployment in cases of most serious crime has the objective of incapacitating the offenders in order to save the hostages' lives. They must not be brought into action unless this is the only remaining means of saving lives in danger;

"Border Police Group 9": this is a unit within the Federal Border Police that, with regard to organizational structure, training, and equipment, as well as its mission, constitutes a synthesis of Special Operational Units and Precision Firing Units.

In this connection, the reader might be interested to know that the Federal Criminal Police Office plans very shortly to conduct a study on the behaviour of hostage-takers from the points of view of criminalistics and the psychology of motivation. This survey is to be accomplished jointly with an acknowledged institute of psychology in Munich and has the following objectives: to study the effect of all the circumstances surrounding the crime on the behaviour of the offenders; to analyze the processes of interaction between offenders, police, victims, and mediator; in order to provide the security authorities — on the basis of results so obtained — with information and means helping them to deal with offenders in hostage situations, to make them aware of structures of motivation and patterns of behaviour, to make them realize the necessity of seeking psychological and tactical advice, and, in general, to give them more confidence and assurance in the way they cope with the situation and in their strategies and tactics.

Finally, considerable efforts have been made in the field of equipment and technical means for operational purposes.

A procurement programme for specially trained units has been carried out on the Federal level as well as in the Federal States, covering such items of equipment especially for cases of kidnapping or hostage-taking as tape recorders for phone calls, radio communications etc.

PROGRAMME
and
LIST OF PARTICIPANTS

PROGRAMME

Wednesday evening, May 12, 1976

8:00 - 10:00

Dinner

Thursday, May 13, 1976

8:00 - 9:00

Meeting of panelists* for the day

9:00 - 9:15

Opening Remarks

Denis Szabo (Canada)

Peter Lejins (U.S.A.)

Ronald Crelinsten (Canada)

Session I

Before the Act

Chairman*: L. Hulsman (Holland)

Panelists: W.G. Estelle (U.S.A.)

R. Kupperman (U.S.A.)

J. Loos (F.R.G.)

9:15 - 10:45

Discussion A+

10:45 - 11:00

Coffee break

11:00 - 12:00

Discussion B+

12:00 - 12:30

Summary & Conclusions (Panelists)

12:30 - 2:30

Lunch

* See Note on Procedure following this programme, for details on the role of panelists and chairmen.

+ The distinction between Discussions A and B is explained in the Note on Procedure.

Session II

Act Occurs: Initial Response

Chairman: J. Léauté (France)
Panelists: R. Bourne (Canada)
A. Cooper (U.S.A.)
C. Hassel (U.S.A.)

2:30 - 4:00	Discussion A
4:00 - 4:15	Coffee break
4:15 - 5:15	Discussion B
5:15 - 5:45	Summary & Conclusions (Panelists)
6:00 - 7:00	Films
7:00 - 8:00	Cocktail
8:00 - 10:00	Dinner

Friday, May 14, 1976

8:00 - 9:00	Meeting of panelists for the day
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Session III

Negotiations

Chairman: A. Reiss (U.S.A.)
Panelists: D. Dawe (Canada)
P. Mullany (U.S.A.)
F. Ochberg (U.S.A.)
W. Salewski (F.R.G.)

9:00 - 10:30	Discussion A
10:30 - 10:45	Coffee break
10:45 - 11:45	Discussion B
11:45 - 12:15	Summary & Conclusions (Panelists)
12:30 - 2:30	Lunch

Session IV

Outcome

Chairman: J. Sundberg (Sweden)
Panelists: A. Fariello (Italy)
W. Frackers (The Netherlands)
K. Gemmer (F.R.G.)
D. Godfrey (Canada)

2:30 - 4:00	Discussion A
4:00 - 4:15	Coffee break
4:15 - 5:15	Discussion B
5:15 - 5:45	Summary & Conclusions (Panelists)
6:00 - 7:00	Cocktail
8:00 - 10:00	Dinner

Saturday, May 15, 1976

8:00 - 9:00	Meeting of panelists for the day
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Closing Session

Follow-up or transfer of technology

Chairman: R. Selten (F.R.G.)
Panelists: A. Bossard (France)
M. Cullinane (U.S.A.)
J. Greacen (U.S.A.)
J. Shields (U.S.A.)

9:00 - 10:30	Discussion A
10:30 - 10:45	Coffee break
10:45 - 11:45	Discussion B
11:45 - 12:15	Summary & Conclusions (Panelists)
12:15 - 12:30	<u>Closing Remarks</u>
	Denis Szabo (Canada) Lloyd Ohlin (U.S.A.)
12:30 - 2:30	Lunch

Note on Procedure

1. Special note should be taken of the role of the panelists, as this has been slightly modified since the memo on structure and methods.
2. Panelists, including the chairman, will function as privileged discussion leaders, doubling as rapporteurs. The role of rapporteur, per se, has been dropped and his functions have been amalgamated with those previously conceived for panelists. In addition, the chairman is no longer conceived of as a mere policeman, but is a full-fledged panelist himself, with the extra duty of presiding over discussion and ensuring a fruitful exchange.
3. In principle, a panelist is expected to bring forth the issues, to ensure that no important perspective is overlooked, to delineate and integrate the various problems which emerge and to lay the groundwork for a composite picture of the inter-related problems and their possible arrays of solutions - or impasses.
4. The individual sessions have been so structured as to facilitate the achievement of these goals. The first part of each session (Discussion A) should be devoted to raising issues, exposing conflicting approaches, needs and concerns, and ensuring that all relevant perspectives are raised. The second part of each session (Discussion B) should be devoted to attempts to reconcile and integrate the various concerns and problems into a coherent

framework. (Here the working paper's analysis of the hostage-taking phenomenon should be useful.) In both these parts, discussion by all participants should be fully encouraged and it is here that the panelists will function as privileged discussion leaders. The chairman, although responsible for "keeping order", should also feel free to engage in active participation as a panelist.

5. In the final part of each session (summary and conclusions), the panelists will function primarily as rapporteurs. At this time, they should lay the groundwork for a final, written statement, summarizing and integrating the proceedings of the particular session. Structuring the discussion in this way allows for the panelists to benefit from one another's on-the-spot analysis and commentary. By scheduling it for the closing period of each plenary session, all participants will, in effect, be involved in this summing-up procedure, even though only the panelists will be doing the on-the-spot analysis.

6. Each panelist, including the chairman, will be expected to write a brief report (around 5 pages), reflecting his own personal perspective. These reports will be used in the final report on the proceedings, and will constitute a significant portion of the final publication.

7. While chairmen have already been designated, the bulk of the panelists will only be designated once the final roster

of participants is assembled at the conference site and last minute cancellations or unexpected arrivals are accounted for. Only then will the full range of expertise and perspectives be clear. Panelists will be chosen to ensure that all perspectives and all experiences relevant to the phase in question during a specific session will be represented. This will maximize the expertise of the group and will ensure that the panel reflects the whole complexity of the problem under consideration.

8. In sum, the sessions have been structured in the manner outlined above in order to facilitate and to maximize fruitful exchange. Participants should feel free to express their views fully and to relate their experiences when appropriate. However, it will aid the panelists, particularly the chairmen, if the distinction between discussion A and discussion B is fully appreciated and adhered to. Discussion A is for "getting" everything out in the open" - differences, agreements, stalements, even insults, if delivered with finesse. Discussion B is for "making some sense out of the whole mess" or for making order out of chaos. Keeping this distinction in mind and working within this operational framework should go a long way toward ensuring a stimulating and productive seminar.

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