

# EX POST PAPER

## Dealing with violent extremist and terrorist offenders: Formalising cooperation among police, prison, probation and prosecution

This paper aims to provide new insights regarding the cooperation among police, prison, probation (Triple-P) and a fourth important partner, prosecution (4P), while dealing with violent extremist and terrorist offenders. It targets both management and staff at the aforementioned entities as well as national and local policymakers in the EU Member States. It reflects the main outcomes of the sixth **RAN Policy and Practice Event** held in Paris on 22 November 2018. This paper describes the trend in how 4P cooperation is rapidly **formalising** now to provide for a more effective response to violent extremist and terrorist offenders. Formalisation takes shape through the establishment of standardised working **procedures**, the development and application of various **tools** for information sharing, risk and needs assessment, and implementation of new **legislation**.

This paper was written by **Dr. Jean-Luc Marret** of the Fondation pour la Recherche Stratégique, in cooperation with **Wim Klei** of the RAN Centre of Excellence.

## From Triple-P to 4P

In the course of 2018, RAN explored how cooperation between law enforcing entities is being shaped in the EU Member States. Doing so, Triple-P was used as an acronym referring to the cooperation between three of these entities: **police, prison and probation** <sup>(1)</sup>. However, in this paper the term 4P will be introduced, **including prosecution as an essential partner** in this law enforcing ensemble too. In particular, at the Policy and Practice Event in Paris, the idea was supported that all four entities need each other, constituting a reciprocal system of mutual dependency around the investigation and sentencing of violent extremist and terrorist offenders and eventually around rehabilitation of these persons too. They need **information** (intelligence, insights) from each other in order to make the right analysis and to take the right decisions. They need to **align their work** with each other in order to undertake the right actions at the right moment. And, they need to avoid both **gaps and overlap** between each other while dealing with (former) violent extremists and terrorists.

While such cooperation appeared relatively informally among the practitioners' networks and communities in the past, a growing **formalisation** is observable now. This formalisation implies a step forward in how law enforcing entities work together while dealing with violent extremists. Things become less ad hoc and actions become more accountable, from the perspective of respecting both the offender's privacy and the staff's security as well as the rule of law. It includes the implementation of standardised working procedures and the introduction of a legislative framework regulating, for example, the sharing of data. It also includes the application of new skills and tools, particularly in the field of information gathering and risk assessment.

## 4P and its challenges

4P cooperation has its challenges. Three of these challenges are highlighted:

- Firstly, new legislation creates both constraints as well as opportunities. Professionals have to learn **how to operate (effectively) within the framework of new legislation**, noticeably regarding issues like confidentiality (security clearance) of information/intelligence sharing <sup>(2)</sup>, the protection of individuals' rights, their privacy or access to personal collected data.
- Secondly, formalised procedures entail the risk of **delayed responsiveness** because following procedures takes time. It takes a while before information arrives at the right place, and before

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<sup>(1)</sup> For the main lessons regarding information gathering and risk assessment within the Triple-P setting, see the ex post paper of the RAN event in Prague: Radicalisation Awareness Network, Centre of Excellence. (2018). Ex post paper [Triple P: Coordination and collaboration between police, prison and probation services in dealing with violent extremist and terrorist offenders](#).

<sup>(2)</sup> To have a typology of principles that influence information sharing, see: Radicalisation Awareness Network, Centre of Excellence. (2018). Ex post paper [Triple P: Coordination and collaboration between police, prison and probation services in dealing with violent extremist and terrorist offenders](#).

decisions can be made. Solutions can be found by inviting all stakeholders to the meeting table simultaneously.

- Thirdly, smart information tools can make sharing information too easy ('just one click away'), causing '**over-activity**' at operational staff level with potential backlash effects (e.g. overexposure of suspects to observation, interrogation, surveillance).

## How 4P cooperation evolves

Cooperation starts with people engaging in contact with each other, motivated by their professional needs, for example to obtain certain kinds of information. Often, **pragmatism prevails**. Practitioners create and develop new habits continuously and test these practices while balancing between material and financial constraints, operational cultures, perceived needs and legal conditions. Typically, they reach out to others within their own professional network first; e.g. to practitioners and staff members in adjoining organisations they have worked with before. Such forms of exchange of information and insights are normal parts of the working routine of all 4P entities. Prosecution and police, for instance, collect information while investigating (potential) offenders. Partly, this information is obtained by them from prison surveillance and/or rehabilitation officers dealing with these offenders under investigation or dealing with the social networks of these offenders. Similarly, prison and probation staff need information about sentenced and/or released persons in order to set up adequate measurements, and (part of) this information is obtained by them from the police and from prosecution. In addition, 4P entities also collaborate with third parties, including public health, social work, education, employment and other services, as well as with cities and civil society.

Over time, it has become clear that more formalised cooperation procedures have many advantages. These allow in particular a **better circulation** of information and intelligence; a better organised **common knowledge** base and the possibility of developing links and cooperation channels; an increased **capacity for synthesis and analysis** (for example, in an 'info house', see below); and finally, the reduction of the risk of omitting a sensitive individual case, since the continuous exchange of bits and bytes among all relevant actors **helps to keep an eye on the bigger picture**.

## The legal framework for 4P

4P cooperative formalisation is observed in many countries. The growing number of aligned and shared actions and responsibilities in addressing violent extremists and terrorists – from investigation and prosecution to sentencing and rehabilitation – characterise this trend. Each partner supports the other, producing relevant and actionable information. The EU Member States show a wide variety from informal to more formalised multi-agency cooperation<sup>(3)</sup>. The pragmatic answers to operational

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<sup>(3)</sup> For a typology of principles that influence information sharing, see: Radicalisation Awareness Network, Centre of Excellence. (2018). Ex post paper [Triple P: Coordination and collaboration between police, prison and probation services in dealing with violent extremist and terrorist offenders](#).

needs are being tested and counterchecked against doctrinal, operational and managerial compatibility: does it work, does it produce desired results, does it fit in our working routines, and is it allowed to work like this?

In the absence of an institutional or legal framework, these rather improvised efforts have sometimes had far-reaching consequences for the individuals involved – practitioners and persons being suspected of or convicted for violent extremism and terrorism. Clear legislation is helpful in the field of preventing and countering violent extremism (P/CVE) for several reasons: it is a standard of a democratic rule of law, it sets clear and binding rules to combat arbitrariness, and it streamlines multi-agency cooperation, including its modalities and procedures.

**Directive (EU) 2016/680** of the European Parliament and of the Council is designed for the implementation of national legislation regulating the obligations, limitations and possibilities for 4P cooperation, while guaranteeing the rights of prosecuted or investigated persons in the field of P/CVE. This Directive relates to the protection of natural persons regarding the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and to the free movement of such data. This Directive seeks to affirm rights for data subjects (right to information, right of access, right of correcting or limiting data) that may be subject to limits, but also obligations for controllers. The Directive also stipulates that to protect public security or to avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties, the rights of the person concerned may be restricted as long as such a partial or complete restriction is necessary and proportionate <sup>(4)</sup>.

The case of Germany shows that even though this EU Directive and the constitutional court's judgements posed a challenge for policy makers, the need to implement these into national law has led to fruitful forms of multi-agency cooperation and a workable balance between individual rights and government powers. The legal framework can thus be seen not so much as a constraint, but as a chance for broad multi-agency cooperation (see box).

#### ***The German case***

*In Germany, the Federal Constitutional Court (Bundesverfassungsgericht) decisions of 20 April 2017 and 24 April 2013 organise investigative powers of the federal criminal police for fighting international terrorism and establishment of the CT database, through the principle of purpose and hypothetical re-collection of data, and the principle of separation of information. In the end, this has resulted in concrete achievements: for instance, under German law, surveillance over an extended*

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<sup>(4)</sup> Articles 13(3), 15 and 16(4), Directive (EU) 2016/680. See: [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=uriserv:OJ.L\\_.2016.119.01.0089.01.ENG](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=uriserv:OJ.L_.2016.119.01.0089.01.ENG)

*period is now incompatible with human dignity. On the other side, according to paragraph 481 of the German code of criminal procedure, probation can now transmit data to police to avert a threat, through a broad cooperation mechanism named KODEX.*

## Preconditions within entities for engaging in 4P cooperation

Within each entity, and in terms of management of the internal work routines, formalisation involves, for example, removing certain **prerogatives** from employees and transferring them to others. It also involves changing proven **practice** in favour of new practice, which can sometimes be a source of professional stress in a changing environment. While implementing new cooperation structures and processes, practitioners may become confused about the **legal limits to their freedom of action**, leading to a period of temporary underperformance. However, a new normative/legal framework helps to raise the bar in practice, improve cooperation and strengthen rights for individuals. The case of Her Majesty's Prison and Probation Service in the United Kingdom illustrates how internal rules and structures can enable or complicate the working process within an entity and in the cooperation among entities.

### *The UK case*

*The case presented mentioned the balancing act regarding on the one hand transparency and honesty with the person of interest in a case, in order to have a workable relationship with the person involved, while on the other hand protecting the general public and sharing information.*

*Other challenges illustrated were appropriate vetting levels, sharing of intelligence, deciding what information to share<sup>5</sup>, managing someone when released back into the community, and the need to know whether interventions are working by putting all evaluations and assessments together to get hold of the complete puzzle. It shows that regular situation reviews are useful and needed (a feedback loop process).*

## Collaborative settings among 4P entities

Formalisation of 4P cooperation enhances the chances for effective action by each of the four entities. All partners benefit from more formalised cooperation procedures and routines. Of interest here is prison intelligence in particular, as a source of relevant information both for the process of investigation before trial and for the process of preparing rehabilitation plans after release.

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<sup>5</sup> For more on challenges concerning information sharing in Triple P cooperation, see: Radicalisation Awareness Network, Centre of Excellence. (2018). Ex post paper [Triple P: Coordination and collaboration between police, prison and probation services in dealing with violent extremist and terrorist offenders](#).

In **France**, a prison intelligence service was created within the prisons to improve the exchange of information between prison, police and intelligence services.

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### *Intelligence, information and judicialisation*

The distinction between intelligence and information must be particularly clear here, insofar as the judiciary must be able to rely not on intelligence, whose conditions for collection, value and use may not be legal in the sense of, for example, prosecution evidence. As such, it would be unusable.

Intelligence sharing is different from information sharing, which may share the same methods of dissemination but involves non-evaluated materials that have not been put through the rigours of the intelligence cycle. The stages of the intelligence cycle include the issuance of requirements by decision-makers, collection, processing, analysis and (classified/restricted) publication of intelligence.

The circuit is completed when decision-makers provide feedback and eventually revised requirements <sup>(6)</sup>. Intelligence takes the process a stage further by interrogating data and information to tell a story (a forecast, for example) that can be used to inform decision-making <sup>(7)</sup>. The judicialisation of intelligence means that intelligence services must manage a range of new issues that challenge the way they operate – from handling the testimony of intelligence officers in open court, to dealing with new evidentiary standards that significantly affect how they collect and retain information <sup>(8)</sup>.

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**Judicial inquiry** can gain from intelligence obtained and shared in a cooperation structure. Prison intelligence appears potentially of extreme importance for prosecution and police. Prison intelligence consists of, among others, the assessment of radicalisation or proselytising capacity, the analysis of attitude towards authority and data collection on opinions expressed. Prosecution may benefit from information in prison regarding the behaviour of the person concerned. Prison observation may provide the judge with information about the person in pretrial detention.

Prison intelligence is also of importance for probation setting up the right **rehabilitation plan** for persons to be released. Of importance is, for example, the information about the progress made by detainees in distancing themselves from violent extremism. A virtuous dynamic of disengagement can indeed feed the reflection of the judicial authorities, in a way that can be favourable to the person concerned. Here, both probation and the prison have a prominent role to play.

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<sup>(6)</sup> See: [http://apa-nc.org/wp-content/uploads/2014/06/mw\\_final.pdf](http://apa-nc.org/wp-content/uploads/2014/06/mw_final.pdf)

<sup>(7)</sup> See: <https://www.recordedfuture.com/threat-intelligence-data/>

<sup>(8)</sup> See: [http://www.sirc-csars.gc.ca/pdfs/ar\\_2009-2010-eng.pdf](http://www.sirc-csars.gc.ca/pdfs/ar_2009-2010-eng.pdf)

### *The role of the investigative judge in France*

*In France, the investigative judge plays a particularly important role within 4P cooperation. Here, and in the field of countering violent extremism, the anti-terrorist judge acts before the judgement, when presumption of innocence still prevails, before the conviction or release of a person. The principle of double jurisdiction applies to him/her: everything that a democratic judge does can be appealed. In this situation, the question of his actions in compliance with the law is both sensitive and fundamental. Any democratic right requires that the law strikes a balance between security and freedom<sup>(9)</sup>. The French anti-terrorist judge works with an anti-terrorist law that derogates from general law, but at equal distance from the interests of the prosecution, the defence and any victims, and in conjunction with the judicial police in order to guarantee an adversarial procedure.*

## Examples of 4P cooperation

Generally, four types of intelligence or information sharing networks are distinguished<sup>(10)</sup>:

- **Hierarchical linear intelligence systems** involve point-to-point connections between actors, for example police and penitentiary, national or local, and seem to promote a secure exchange of information, but only between the organisations involved.
- **Co-located liaisons' networks** require the creation of specific multi-agency locations where representatives and analysts of the organisations concerned meet and exchange information. The model of 'house of safety', often displayed in Belgium, France, the Netherlands and the United Kingdom, is similar to this extended cooperative exchange model, with different levels of classification, depending on the staff present and security or legal constraints.
- **Hub-and-spoke network organisation** of intelligence sharing involves a common connection to intelligence and information, usually through secured networks to common servers and databases that all members can access.
- **A combination of these networks** may in fact be preferred, depending on needs and political and operational demands, but also legal or budgetary constraints.

Belgium, France, the Netherlands and the United Kingdom do apply these types of information sharing networks, each in their own manner, as the examples below illustrate.

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<sup>(9)</sup> See: <https://www.conseil-constitutionnel.fr/nouveaux-cahiers-du-conseil-constitutionnel/juger-le-terrorisme>

<sup>(10)</sup> Pfeifer, J. W., [Network fusion: Information and intelligence sharing for a networked world](#). Homeland Security Affairs, Vol. 8, October 2012.

The case of the Belgian Central Counter Terrorism Unit showed a structure for cooperation between different security services. A possibility for information sharing between different services is to have a common database accessible for the security services (police, intelligence, security and the Coordination Unit for Threat Assessment (CUTA)) led by one of the actors. It was highlighted how cooperation and information sharing through the database was enabled by implementing a new law.

#### ***The Belgian approach***

*Three levels can be distinguished for the Belgian approach. At each level, the 4P entities collaborate with each other as well as with third parties. At the first level of 'Integration & society', the focus is on civil society resilience, networks and communities. At the second level of 'Prevention & repression', the focus is on sharing knowledge and experience, enforcing networks for early detection of signs of radicalisation, and the individualised approach to very vulnerable persons. The third level consists of a regional expertise centre, focusing on information and expertise, and working with a pool of experts.*

The **Dutch safety house** model is characterised by multi-level and multi-agency cooperation, well beyond the traditional Triple-P. Such structured organisations are necessarily permeated, from within, by internal rules enabling cooperation. Safety houses deal with cases that are complex and for which sometimes no operational choice seems entirely satisfactory or unanimous. Essential factors for successful cooperation include a balance between hard and soft measures, and that it is about good people rather than good practices. Of particular interest is the role of the community police officer, being the linking pin between intelligence and the local safety house.

#### ***Safety House, Arnhem (NL): multi-level and multi-agency***

*There are three levels to be distinguished in the Safety House, each of them with a network of actors involved. On the **governance and strategic level**, the mayor, prosecutor and district police chief are involved. On the **tactical level**, the head of the local police team and municipality safety advisor are involved. On the **operational level**, multidisciplinary consultation comes into play; including child protection, social worker, probation and police officer, and local civil society (such as sports associations, informal networks of parents, neighbours, teachers, mosques and cultural organisations).*

The British multi-agency approach is called the Channel panel. Referrals to Channel are carefully 'deconflicted' from 'Pursue' activity allowing a significant range of possible interventions to be safely considered by the Channel panel partners.

### ***The UK Channel***

*The Channel panel is a confidential, voluntary multi-agency safeguarding programme that supports people who are vulnerable to violent extremism. It is run in every local authority in England and Wales and addresses all types of extremism. It is about early intervention to protect vulnerable children and adults who might be susceptible to being radicalised, which, if left unsupported, could lead to involvement in terrorist-related activity <sup>(11)</sup>.*

**In France**, a national plan has been adopted in February 2018 providing 60 measures to holistically refocus the prevention policy <sup>(12)</sup>. This plan establishes modalities of action in different fields (schools, universities, sports clubs, and private and public sectors). It organises the monitoring of radicalised people in custody or under court-mandated supervision, among others, by setting up new radicalisation assessment units (QER), dedicated to the assessment of people held under ordinary criminal law.

### ***France: two levels of 4P cooperation***

*At local level, an evaluation group operates under the authority of the Prefect, made up of all the security services (territorial intelligence, General Directorate for Internal Security (DGSI), judicial police, national gendarmerie, prison administration, Ministry of Defence intelligence services). At this level, information can be shared easily and effectively. At national level, a prefectural monitoring unit for the prevention of radicalisation and support for families consists of members from the state services (police, education, judicial protection of young people, unemployment office), local authorities and civil society. Under the authority of the prosecutor, it puts in place specific measures based on the profiles of people undergoing radicalisation, including their families, in order to prevent violent acts.*

## **4P and beyond**

The formalisation of 4P cooperation creates stronger relationships between the law enforcing entities countering violent extremism. However, 4P cannot operate effectively without maintaining ties and alignment with other parties in society, as the examples above have shown.

**Local communities** have an intense knowledge of the ground. However, there is no single European model. The role of **mental health practitioners** is seen as fundamental in a growing number of EU

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<sup>(11)</sup> See: <https://www.gov.uk/government/case-studies/the-channel-programme>. For key findings regarding individuals referred and supported through the Channel programme, see also: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/694002/individuals-referred-supported-prevent-programme-apr2016-mar2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/694002/individuals-referred-supported-prevent-programme-apr2016-mar2017.pdf)

<sup>(12)</sup> See: <https://www.cipdr.gouv.fr/pnpr/>

Member States, although their involvement raises issues of patient confidentiality and professional secrecy. **NGOs and voluntary organisations** provide a particular angle of understanding and thus increase awareness of multi-agency cooperation, the security of citizens, or the possibilities for the reintegration of beneficiaries. Finally, the role of concerned **citizens** deserves to be highlighted in different aspects of the fight against violent extremism and terrorism (from counter-narrative to reports).

#### ***Katiba des Narvalos***

*This a network of French-speaking citizens who produce counter-narrative against jihadist networks and Daesh in particular <sup>(13)</sup>. The aforementioned French 2018 national plan leaves a significant part to civil society efforts in the development of counter-narrative in various registers, including those of humour, art and religion among various audiences, particularly young people and women.*

## Key takeaways

The most important lessons on the cooperation between police, prison and probation services regarding violent extremist and terrorist offenders, are the following:

- A growing **formalisation of cooperation** through standardised working procedures, the development and implementation of **tools and standards for information sharing**, risks and needs assessment, decisions regarding **responsibility**, as well as implementing new legislation;
- Triple-P cooperation should be **4P cooperation: prosecution** is a fourth essential partner in addition to the cooperation between police, prison and probation in investigating, sentencing and the rehabilitation of violent extremist and terrorist offenders;
- The **need for a supporting legislative framework** to cooperate and share information. Legislation provides for a standard of a democratic rule of law; it sets clear and binding rules to combat arbitrariness and it streamlines multi-agency cooperation, including its modalities and procedures;
- Besides legislation, rules and procedures, **trust should be built between the entities** to confide in each other's expertise and ability;
- The **importance of sharing prison intelligence** for prosecution and rehabilitation purposes;
- Raising awareness on possible different **risk assessment tools** used and the **meaning of their outcomes**;
- Using **local information sharing networks** for multi-agency cooperation **beyond 4P**, including mental health services, social workers and civil society.

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<sup>(13)</sup> See: <https://twitter.com/katnarv> and <https://twitter.com/CtrlSec>