

POLICE WATCHDOG

INFORMATION BROCHURE



THE STANDING POLICE
MONITORING COMMITTEE



Aerial photograph: Wim Robberechts & Co.

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1. Foreword

Arising from the Federal Parliament's calls for an external oversight body covering all officials with policing powers, the Standing Police Monitoring Committee, or Committee P for short, was founded in 1991 and began *de facto* operations in mid-1993. Over the years, the general public have become familiar with this body, as can be seen by the large number of complaints and denunciations it receives each year.

By examining these complaints, conducting inspection inquiries and drawing on information from a variety of sources, Committee P has a pretty accurate picture of the state of policing at any given time. Particular emphasis is placed on the coordination, efficiency and effectiveness of the federal and local police forces, special inspection services and various officials with policing powers in other entities. There is also a systematic focus on how these parties safeguard citizens' rights and freedoms.

Driven by its ongoing commitment to promoting the effective operation of a democratic, principled and (in the broad sense) community-oriented police, since its creation Committee P has also given substance to various additional duties conferred by the legislature, such as monitoring public transport companies' security services and security officers and the operation of the Coordination Unit for Threat Assessment.

The fact that Committee P reports to Parliament distinguishes it from other oversight bodies focusing more on inspection duties and reporting to the executive branch, such as the General Inspectorate of the Federal and Local Police, inspection bodies and internal oversight bodies. However, being an autonomous body (albeit under parliamentary supervision) does not stop Committee P liaising closely with the authorities and the many stakeholders involved, with this occasionally even leading to a memorandum of understanding (MoU) with them.

As an external oversight body, Committee P also provides a first port of call for international authorities monitoring respect for human rights and the protection of citizens' fundamental rights.

Committee P can only perform its mission if all the parties involved cooperate fully and meet their obligations, pursuant to the Organic Law of 18 July 1991, in particular with regard to the ex-officio communication of disclosed information.



Our aim – which we hope to have achieved – in compiling this brochure was to set out the objectives, history, organisation and modus operandi of Committee P.

Happy reading!

2. Our history

Committee P's history has been marked by five key milestones.

2.1 The conclusions of the commission of inquiry into the Brabant killings

The May 1988 parliamentary commission of inquiry into the approach taken to tackling organised crime and terrorism (or the 'first commission of inquiry into the Brabant killings' for short) drew a number of conclusions regarding monitoring of the police:

"[...] An external body with the task of monitoring all those with policing powers should be established, as internal oversight has been found wanting. [...] This oversight body would have a supervisory role rather than any disciplinary function. In other words, it would be in charge of monitoring how police duties are performed and should report regularly to the Government and to Parliament"¹.

The commission of inquiry's report also painted a picture of a dysfunctional police due to various factors including:

- high levels of mistrust and a lack of solidarity among investigators and between the police and the magistracy;
- rivalry between police forces, exacerbated by differing statuses, recruitment procedures, training measures and fields of activity;
- poor coordination between police forces;
- the undemocratic nature of aspects of some policing methods;
- significant issues relating to the management of investigations;
- overlaps between the powers of various police forces.

2.2 Pentecost Plan I and the promulgation of the Organic Law of 18 July 1991

Following up on the report of the commission of inquiry mentioned above, a Government press release issued on 5 June 1990 set out a programme covering policing, citizen security and the fight against crime, better known as 'Pentecost Plan I'.

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¹ Free translation of a passage from Parliamentary Documents, Chamber of Representatives, 1989-1990, no. 59/8, p. 367 (in Dutch and French).

This presented various action points:

- tackling structural, institutional and mentality issues;
- striving to safeguard and respect democratic rights and freedoms so as to provide transparency and efficiency, and stressing the responsibility of all the stakeholders involved in policing;
- focusing on qualitative rather than quantitative aspects.

At the heart of Pentecost Plan I are the following issues: the coordination of policing policy, changes to criminal policy, structural adjustments to the operation of the police and intelligence services, and the implementation of the Policing Act.

Pursuant to Pentecost Plan I, in 1991 the Government came up with a proposed arrangement for monitoring the police. This was designed to meet three key objectives:

- respect for citizens' constitutional rights and their fundamental rights and freedoms;
- effectiveness (and efficiency);
- coordination of the various police forces.

At sittings on 27 and 28 February and 12 and 13 July 1991, the two legislative chambers adopted the Organic Law on monitoring police forces and intelligence services, which was then signed by the King on 18 July 1991 and published in the Belgian Official Gazette on 26 July 1991. This Organic Law has been amended on a number of occasions in the intervening years.

2.3 The 1998 extension of powers

In 1998, the Government decided to establish a collegiate body to examine appeals against security clearances (i.e. official authorisations to access confidential data) being granted or withheld. The then Government considered it vital that the Chairman or another member of Standing Committee P be part of this body, known as the 'Appeal Body for Security Clearances', and therefore the Chairman of Committee P was appointed to sit on this body along with the Chairman of the Standing Intelligence Agencies Review Committee (Committee I) and the President of the Data Protection Authority.

2.4 The 2004-2005 extension of powers

The Programme Law of 27 December 2004 conferred on Committee P a whole range of other monitoring powers relating to the supervision of security services and security officers performing their duties for a State-owned public transport company (SNCB/NMBS, STIB/MIVB, TEC, De Lijn), based on an amendment to the Law of 10 April 1990 regulating private and personal security, repealed by the Law of 2 October 2017 regulating private and

personal security, which reaffirmed Committee P's competence to exercise oversight over the above-mentioned services and officers.

In 2005, the legislature decided to extend the rules on security clearances to security certificates and advice, resulting in the appeal body being granted the same adjudication powers with regard to any authorisation, or refusal, to issue any such certificate or advice. These documents are required for access to certain premises, buildings or grounds or to take up very specific roles.

2.5 The 2006 extension of powers

A decision was made when establishing the Coordination Unit for Threat Assessment (CUTA), a body responsible for evaluating the threat posed by terrorism and extremism, to place it under the joint supervision of Standing Committees P and I. This brand-new monitoring task covering a new body and a new domain was a direct result of the Threat Assessment Act of 10 July 2006². Since then the Organic Law has been called the *"Organic Law of 18 July 1991 on monitoring the police and intelligence services and the Coordination Unit for Threat Assessment"*.

One key element in the functioning and constitution of the CUTA is the legal obligation for 'support services' to communicate to it, either ex officio or at the request of its director, any information which is available to them in the context of their duties laid down by law and which is relevant to the performance of its tasks. These support services, which must designate one or more of their members to participate in the CUTA, are State Security (Belgium's civil intelligence service) and the General Intelligence and Security Service of the Armed Forces; the local and federal police forces; the Belgian federal finance ministry, FPS Finance (specifically, the General Administration of Customs and Excise and the General Administration of Treasury); the federal transport ministry, FPS Mobility and Transport; the federal interior ministry, FPS Interior (specifically, the Immigration Office and the General Directorate of the Crisis Center of the Government); the federal foreign ministry, FPS Foreign Affairs; the Belgian federal ministry of Justice, FPS Justice (specifically, the General Directorate of Penitentiary and the Service for Whorships and the organised freethought and other services or authorities the Government may specify at a later date.

In terms of the CUTA and the support services, the supervision provided by the two committees relates to the duty of the support services to pass on to the CUTA any relevant information, the protection of citizens' statutory and constitutional rights and the coordination and effectiveness of the CUTA.

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² Belgian Official Gazette of 20 July 2006 (in Dutch and French).



The term 'police forces' covers the Federal Police, the local police forces, the special inspection services and the security services used by a public transport company. It is in this broad sense that the term is to be understood throughout this brochure.

2.6 The 2018 extension of powers

With effect from 5 September 2018, the Standing Committee P was appointed by the Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data, together with the Standing Committee I, as data protection authority charged with the control of the processing of personal data by CUTA and its processors.

3. Our mission

Standing Committee P's aim is to promote the effective operation of a democratic, principled and community-oriented police.

As such, it is the external body responsible, under the supervision of the Federal Parliament, for overseeing both the general operation of the police, inspection or monitoring services and the policing practices of all officials with policing powers. In particular, Committee P monitors the way in which efficiency, effectiveness and coordination are achieved and how fundamental rights and freedoms are respected and actively promoted.

In its capacity as a policing watchdog, Committee P aims to use its investigations and assessments (undertaken either on its own initiative or on request) to:

- continually update the overall picture of policing and of the operation of the police;
- review and give its opinion on the operation of the police;
- issue proposals and advice to the competent (police) authorities.

In addition, a number of specialist investigators are specially assigned to criminal investigations conducted to meet the judicial authorities' needs. Priority is given to investigations in areas that are also likely to supply information that will help Committee P fulfil its watchdog role.

The five members of Standing Committee P, in conjunction with the whole staff, strive to perform the above tasks:

- focusing primarily on the organisation and operation of the police forces;
- paying particular attention to taking a constructive and proactive approach to problems;
- acting independently of the police apparatus and the police authorities;
- objectively and on a methodologically sound basis;
- endeavouring to maintain a high level of professionalism;
- making an effort to pursue excellence through its 'learning organisation' approach;
- working in a positive atmosphere;
- through a targeted, collegiate and pluralistic decision-making process.

4. Our values

4.1 A positive and constructive approach

Committee P aims to listen to citizens, Parliament, authorities and police officials. It focuses in particular on the various mechanisms for promoting the effective operation of policing structures within our democratic society.

Committee P's primary mission is to ascertain to what extent the effective operation of the police forces can be maintained and where there are areas for improvement. In this connection, it determines whether changes to the applicable legislation or regulations are required, thereby acting as a watchdog for the police service.

With a view to ensuring that Parliament and the police authorities can live up to their responsibilities in this regard, Committee P must be able to provide a reliable, relevant and as complete as possible picture of the police landscape and the issues involved.

It follows from this that the monitoring undertaken by Committee P is not primarily intended to identify individual actions so that they can be brought to book; this role remains the responsibility of the judicial, disciplinary and police authorities. In this connection, Committee P must regularly make clear to both the authorities and the public that it is neither a magistrate nor a disciplinary authority and that it does not have the power to award damages.

Finally, Committee P's oversight goes beyond simply making observations or recommendations. It also checks whether and to what extent its recommendations have been taken on board. However, Committee P always makes an effort to do this in a positive and constructive fashion and in consultation with the individual or entity under examination.

4.2 Neutrality, objectivity and transparency

Committee P ensures that its duties are performed objectively, neutrally and transparently, adopting a democratic approach that respects the primacy of the rule of law, freedoms and fundamental rights.

5. Our organisation

Standing Committee P is assisted in its tasks by an investigation department, called 'Investigation Department P', and receives support from an administrative department.

5.1 Standing Committee P

Standing Committee P is made up of five full members, including its Chairman – who must be a magistrate – and its Vice-Chairman, with several substitutes being designated for each one of them. Standing Committee P is assisted by a clerk.

Members are appointed for a renewable six-year term. They must have the loyalty, discretion and integrity required to handle sensitive information. They also have a 'top secret'-level security clearance enabling them to handle classified documents. The Organic Law stipulates various incompatibilities and restrictions designed to ensure their neutrality and independence.

The five full members of Standing Committee P follow up on inspection inquiries, complaints and reports of police misconduct. Standing Committee P is a collegiate body, meaning that all final decisions are taken by the five members meeting in plenary session.

5.2 Investigation Department P

Investigation Department P is Committee P's operational arm and therefore its most visible department on the ground.

To perform its inspection inquiries and certain investigations into complaints, Standing Committee P make extensive use of this department's services. In addition, on the orders of the judicial authorities, Investigation Department P conducts investigations into police officials (in the broad sense of the term) who are suspected of a crime or an offence. All members of Investigation Department P hold the capacity of 'judicial police officer, assistant of the public prosecutor'.

Furthermore, they have a right of priority over other judicial police agents and officers and may seek the assistance of the law enforcement authorities. As regards the inspection inquiries or the investigation of complaints, the specific legal powers of members of Investigation Department P are listed in the Organic Law of 18 July 1991.

The Ministerial Directive of 22 September 2011 established a division of labour between the General Inspectorate (AIG) and Investigation Department P in terms of judicial police duties for crimes and offences involving police officials.

Investigation Department P is headed by a Director-General, assisted by two deputies. They are appointed by Standing Committee P for a renewable five-year term. The Director-General leads this department under the collegiate authority, management and supervision of Standing Committee P.

In addition, an optimal framework of 52 members of staff has been set. All of them bear the title of 'commissioner-auditor', regardless of their level or grade. They are either seconded from a police force or public service or are permanent staff. The seconded members are also appointed for a renewable five-year term.

5.3 Administrative Department

Standing Committee P and Investigation Department P are supported by an administrative department led by a clerk. Ideally it has 36 members of staff.

The clerk is also appointed by the Chamber of Representatives and is responsible for the management and administration of the department, under the collegiate authority and supervision of Standing Committee P.

The Administrative Department consists of three sections: the Support section, the Data Management section and the Complaints section.

5.4 Support section

This section contains a Legal Studies Unit, a Finance, Personnel and Logistics Unit, an Information and Documentation Unit and a Secretariat. They ensure that the organisation has all the operational resources required in terms of personnel, logistics and infrastructure.

5.5 Data Management section

The Data Management section is responsible for the collection and processing of information from external bodies such as judicial or disciplinary authorities.

Internally, this department's mission is to ensure the uniformity and quality of data encoding to enable analysis.

5.6 Complaints Section

Committee P's Complaints Section forms part of the Administrative Department. This section handles complaints, analysing them and submitting complaint cases to Standing Committee P for a decision to be made, at a meeting in plenary session, on how they are going to be dealt with.

After receiving the results of the investigation, the Complaints Section prepares to close the case for Standing Committee P, which adopts a position when meeting in plenary session.

6. Our place in the world of oversight

6.1 Our role assisting the Federal Parliament

Committee P's role is inextricably bound up with the principle of the separation of powers. As such it assists the legislature in its constitutional role of overseeing the executive branch, having been established under the auspices of the Federal Parliament to provide the latter with an external monitoring body for the police.

Its monitoring does not cover the judicial authorities or their acts as part of a prosecution, nor does it concern the administrative police authorities.

The relationship between Committee P and the Federal Parliament is fourfold:

1. Appointment of the members of Standing Committee P and the clerk
The five members of the decision-making committee of Committee P (called "Standing Committee P"), their substitutes and the clerk of Committee P are appointed by Parliament, which has the power to dismiss them. Before taking office, they are sworn in by the Speaker of the Chamber of Representatives.
2. Reporting of Committee P's activities
Standing Committee P submits a report on each inspection inquiry to the House of Representatives.
It also reports to the Chamber of Representatives and the Senate: (1) annually, in the form of a general activity report, including conclusions, proposals and general recommendations; (2) whenever it deems this appropriate or at the request of the Chamber of Representatives or the Senate, in the form of an interim report on a specific investigation; (3) when the Chamber of Representatives assigns it an investigation; (4) where it ascertains, after a reasonable period (but in any case after more than 60 days), that its conclusions have not been followed up on or that the measures taken are inappropriate or inadequate.
3. Monitoring of Committee P's activities
A standing committee, the special committee charged with providing parliamentary support for the Standing Police Monitoring Committee and the Standing Intelligence Agencies Review Committee, was established within the Chamber of Representatives to monitor the activities of Committee P. This special committee meets with Committee P at least once every quarter.
4. Committee P's budget
The appropriations required for the operation of Committee P are included in the budget allocated by the chambers of the Federal Parliament.

Committee P is not responsible for the organisation or operation of the entities monitored by it and therefore acts as a totally external and independent body, both with regard to the executive branch and the police forces under its supervision.

This particular feature distinguishes Committee P from other inspection or monitoring bodies – such as the General Inspectorate of the Federal and Local Police, and the internal monitoring bodies – which are more focused on inspection duties and report to the executive branch.

6.2 Other inspection or monitoring bodies

The police are monitored by various bodies, some of which Committee P has entered into agreements with.

6.2.1 The General Inspectorate (AIG) and internal monitoring

In this context, Committee P works in consultation with the General Inspectorate of the Federal and Local Police (AIG), a ministerial body reporting to the two relevant ministers (Interior and Justice), with a view to performing its statutory duties as a police inspection body. Standing Committee P has entered into an agreement with AIG to this effect. It also strives to forge cooperative ties with the police forces' internal monitoring bodies. In this connection, Committee P signed agreements with the General Commissioner of the Federal Police and with local police chiefs.

However, this cooperation does not affect Committee P's ability – or even obligation – to monitor (whether on its own initiative or following a complaint or report of police misconduct) the operation of the above bodies, including AIG, which in a way places Committee P above this internal monitoring body.

6.2.2 The police information management monitoring body

The Supervisory Body for Police Information Management (COC) was established in 1998 but has taken on a new role following the implementation of the new Privacy Act (GBW/LPD) in Belgium³. This body was transferred to the legislative branch in 2014⁴ and consequently also forms part of parliamentary oversight.

Its tasks are as follows:

1. Serve as the data protection authority (DPA) for the integrated police, the General Inspectorate (AIG) and the Belgian Passenger Information

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³ Act of 30 July 2018 on the protection of natural persons with regard to the processing of personal data (published in the *Belgian Official Gazette* on 5 September 2018, known as the Privacy Act (GBW/LPD)).

⁴ Act of 18 March 2014 on the management of police information and amending the Act of 5 August 1992 on policing, the Act of 8 December 1992 on the protection of privacy in relation to the processing of personal data, and the Code of Criminal Procedure.

Unit (BelPIU) with regard to Chapter II of the GBW/LPD (implementation of the police-justice directive).

2. Serve as DPA for the integrated police⁵ with regard to non-operational missions (see Chapter I of the GBW/LPD (e.g. recruitment and selection) (implementation of the GDPR)).
3. Supervise the processing of information and personal data referred to in Articles 44/1 to 44/11/13 of the Act of 5 August 1992 on policing, including those data housed in the national general database (ANG/BNG), primary databases, specific databases, technical databases, and shared databases on extremism that could lead to terrorism.
4. Play a role in monitoring the visible and non-visible use of cameras by police (Articles 25/1 to 25/6 and Articles 46/1 to 46/14 respectively, where the COC serves as BAM/MPA committee⁶ in the manner of the BIM committee for data collection methods).

6.3 Administrative and judicial authorities

The police forces always operate under the authority and responsibility of their administrative and judicial authorities. At the same time, there is regular contact with the provincial administrative (police) authorities (e.g. the provincial governor) and their local counterparts (e.g. the mayor, the police board). There are also formal and informal contacts with the Public Prosecutor's Office (more specifically, the Board of Prosecutors General, the Board of Public Prosecutors or the federal prosecutor). These relate in particular to the appropriate and practical implementation of information provision in accordance with Articles 14 and 26 of the Organic Law of 18 July 1991 (communication to Committee P of judgements, rulings, criminal investigations and offences involving members of the police forces).

6.4 Committee I

Committee P fosters close ties with its counterpart, the Standing Intelligence Agencies Review Committee (Committee I). The two committees exchange information about their activities and send each other their reports and conclusions.

They also hold joint meetings at least twice a year, at which further information may be exchanged. At these meetings, they jointly perform their duties on matters relating to both the police and intelligence services, including the division of tasks and the coordination of operations between the police and the intelligence services. Since 1 December 2006, the two

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⁵ Art. 4(2)(4) of the DPA Act.

⁶ BAM/MPA stands for *Bijzondere Administratieve Methoden/Méthodes Particulières Administratives* (special administrative methods).

committees have together performed their duties pertaining to the Coordination Unit for Threat Assessment (CUTA) and the support services.

The Chairman of Committee P also sits alongside the Chairman of Committee I and the President of Data Protection Authority on the body hearing appeals brought under the Law of 11 December 1998 establishing an appeal body for security clearances, certificates and advice.

6.5 Other national and international players

Committee P has contacts with many partners at Belgian federal level, getting together with them from time to time at working meetings, e.g. the Police Disciplinary Board, the Federal Police Council, the Data Protection Authority and the Board of Prosecutors General.

Committee P entered into an agreement with Unia (the Interfederal Centre for Equal Opportunities and Opposition to Racism and Discrimination) and Myria, the Federal Migration Centre, with a view to promoting the exchange of information and collaboration.

As well as these public-sector partners, Committee P also has contacts with NGOs such as the Human Rights League and Amnesty International.

As an external and independent oversight body, Committee P provides a first port of call at Belgian federal level for international authorities responsible for monitoring respect for human rights. Committee P's responsibilities for the protection of citizens' fundamental rights in the context of policing overlap with those of various international authorities established under the auspices of the Council of Europe⁷ and the United Nations⁸ to ensure respect for human rights.

At the request of the Government (mainly the justice ministry, FPS Justice), Committee P is regularly called on for its collaboration, helping draft state reports, participating in meetings as part of periodic or ad hoc visits or providing responses to specific requests. The variety of knowledge and information held by Committee P as well as the know-how it has developed in terms of problem assessment and best police practices are of significant interest to these authorities.

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⁷ Specifically, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Commission against Racism and Intolerance (ECRI), the Council of Europe Commissioner for Human Rights, etc.

⁸ Specifically, the UN Committee against Torture (CAT), the UN Committee on the Elimination of Racial Discrimination (CERD), the Office of the UN High Commissioner for Human Rights.

On 5 May 2015, Committee P signed the cooperation agreement between institutions whose mandate consists fully or in part of a responsibility for safeguarding human rights, between Unia, Myria, the College of Federal Ombudsmen, the Data Protection Authority, the Institute for the Equality of Women and Men, the Ombudsman of Wallonia and the Wallonia-Brussels Federation, the Ombudsman of the German-speaking Community, the Flemish Office of the Children's Rights Commissioner, the Office of the General Delegate for the Rights of the Child of the Wallonia-Brussels Federation, the National Commission on the Rights of the Child, the Combat Poverty, Insecurity and Social Exclusion Service, Committee I and the High Council of Justice.

At the monthly consultation forum, these institutions discuss matters of shared interest, sharing useful experiences, methodologies and practices. Each institution will make appropriate use of its respective expertise to tackle shared issues with a view to ensuring complementarity and promoting inter-institutional cooperation.

Internationally, Committee P belongs to various networks that aim to enable institutions operating in the same field of activity to share their experiences. For instance, Committee P participates in the European Partners against Corruption (EPAC) network launched in November 2004 and made up of institutions from the member states of the European Union and of the Council of Europe that are responsible for police monitoring and preventing and combating corruption. Further to its involvement in the EPAC network, Committee P is also part of the European contact-point network against corruption (EACN) established by Council of the European Union Decision 2008/852/JHA of 24 October 2008. For more details, see <https://www.epac-eacn.org>.

Committee P is also a member of the Independent Police Complaints Authorities' Network (IPCAN), set up in May 2013 on the initiative of the French Defender of Rights. Each year, Committee P participates in this network's annual conference. For more details, see <https://ipcan.org>.

Committee P is also a member of the International Francophone Police Training Network (Francopol), a consultative and cooperative body associated with the International Organisation of La Francophonie. Francopol's mission is to promote the sharing of best practices as well as research and ideas on police training and expertise. It aims to become a centre of excellence in terms of the sharing and emergence of new police training trends. This network intends to boost police skills to better serve citizens. Francopol provides a forum for improving the consistency of public security initiatives and accelerating the modernisation of policing. As such, the network is playing its part in fostering a greater commitment to peace, democracy and human rights across the French-speaking world ('la Francophonie') with police capacity-building initiatives. Francopol is an international network of police forces, oversight bodies,

training centres, universities and other stakeholders operating in the field of police security throughout 'la Francophonie' and beyond. National members also organise activities back home in their respective countries. For more details, see <http://www.francopol.org> (in French).

7. Who is monitored by Committee P?

Extensive monitoring ratione personae

Committee P provides external oversight of what the Organic Law of 18 July 1991 calls "police services" (also rendered in English as "police forces"). This is a very broad term.

More specifically, Committee P closely monitors:

- all the constituent parts of the local police zones and the Federal Police, including their internal monitoring and inspection bodies and the General Inspectorate of the Federal and Local Police;
- entities forming part of authorities and bodies serving the public interest whose members hold the capacity of judicial police officer or agent;
- persons individually responsible for identifying and recording offences. Private rural wardens are one concrete example of this. Overall, it would be safe to say that this affects hundreds of police officials operating in sectors such as the economy, labour and employment, agriculture, public health, social security and public works.

Committee P's monitoring also covers other stakeholders: security services within public transport companies (SNCB/NMBS, STIB/MIVB, TEC, De Lijn) and the security officers who work there doing this job or performing these duties (Article 212 of the Law of 2 October 2017 regulating private and personal security); and the Coordination Unit for Threat Assessment (CUTA), which is responsible for evaluating the threat posed by terrorism and extremism, as well as the various services which are required to forward information to the CUTA (the so-called 'support services'). In addition, Committee P, together with Committee I, was appointed as data protection authority in charge of verifying the processing of personal data by CUTA and its processors (Article 161 of the Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data).

Committee P's mission is to examine how police forces act on the decisions of the judicial authorities, the Public Prosecutor's Office and the administrative authorities (the Interior and Justice Ministers, provincial governors, district commissioners and mayors). Although Committee P has no monitoring powers over these police authorities themselves, its findings inevitably include some relating to the actions or omissions of these authorities.

As such, Committee P investigates the activities and methods of the police and inspection and security services; their internal regulations and directives; any documents regulating the conduct of their members (except the guidelines for detecting and prosecuting offences and the guidelines relating to the administrative police); the activities and methods of the General Inspectorate

of the Federal and Local Police as well as the monitoring bodies that are specifically internal to the police forces or police corps.

8. How does Committee P perform its monitoring duties?

8.1 Watchdog role

The need to handle a large number of complaints and individual reports of police misconduct has a major impact on Committee P's workload. As a result, the legislature has explicitly encouraged the Committee to shift the focus of its activities back onto its core responsibilities and tasks, namely safeguarding citizens' constitutional rights and fundamental freedoms, as well as seeing to the coordination, effectiveness and efficiency of police forces and officials with policing powers.

Committee P aims to use its watchdog role to carry out this mission to the best possible effect for the benefit of the legislative and executive branches and the judiciary as well as the various police chiefs.

In addition to drawing on its internal expertise, Committee P may call on external experts where appropriate. The process of developing the overall picture is both proactive and reactive, being performed on Committee P's own initiative and on request. In as far as possible, it decides as soon as it can on strengths, areas for improvement and problems.

Committee P accomplishes this mission by means of the following activities:

- collecting and recording information;
- performing on-the-ground investigations and making analyses; in conducting the investigation, priority is given to the macro and meso levels, while the micro level is examined in so far as required by law but this is kept to the bare minimum;
- disseminating its conclusions, including through publications;
- issuing short-, medium- and long-term recommendations and opinions, in line with the early-warning principle or not as the case may be;
- following up on the recommendations.

The legislature has provided Committee P with a number of means for it to perform its overall monitoring mission, meaning that it has various tools of its own or external tools at its disposal. These are detailed below.

8.2 Information disclosed to Committee P

Through various information sources, Committee P has access to data that are indicators of either best practices or potential problems within the police or inspection services. This allows it to substantiate its thinking and decision-making and, where necessary, conduct inspection inquiries or other investigations.

The 'reactive' component relates to:

(1) complaints and reports of police misconduct submitted by private individuals or by certain police officials or forwarded by national bodies involved in defending human rights or by other non-governmental organisations;

(2) the information provided by the police forces and corps, the disciplinary authorities, the General Inspectorate of the Federal and Local Police and the judicial authorities, as envisaged by the Organic Law of 18 July 1991.

The following are forwarded to Committee P:

- by the police forces:⁹
 - regulations and guidelines as well as any other documents regulating their members' conduct;
 - a copy of complaints and reports of police misconduct they have received and the results of any internal investigation;
 - disciplinary and law enforcement measures against one of their members;
 - a copy of the annual report or any other general report on their operation;
- by the General Inspectorate (AIG)¹⁰:
 - regulations and guidelines as well as any other documents regulating its members' conduct;
 - a copy of complaints and reports of police misconduct it has received and the results of any internal investigation;
 - a copy of the annual report or any other general report on its operation;
- by the CUTA¹¹:
 - regulations and guidelines as well as any other documents regulating the conduct of members of the CUTA and of the support services;
- by the judicial authorities¹²:
 - a copy of judgements and rulings relating to crimes and offences committed by members of the police and of the CUTA;
 - when an information procedure or an investigation for a crime or offence is opened against a member of a police force;
- by members of the police or of the General Inspectorate of the Federal and Local Police:

.....
⁹ Article 14*bis*, paras 1 and 2 and Article 14*ter* of the Organic Law of 18 July 1991.

¹⁰ Article 14*bis*, paras 1 and 2 and Article 14*ter* of the Organic Law of 18 July 1991.

¹¹ Article 9, para. 2 of the Organic Law of 18 July 1991.

¹² Article 14, paras 1 and 2 of the Organic Law of 18 July 1991.

They are required to prepare an information report for the attention of the Director-General of Investigation Department P if a crime or an offence is found to have been committed by a police official¹³.

The following are submitted at Committee P's request:

- a copy of the deeds or documents, or information relating to criminal proceedings against members of the police and of the CUTA for crimes or offences committed while performing their duties¹⁴;
- any other texts or documents Committee P deems necessary to accomplish its mission¹⁵.

The 'proactive' component relates in particular to:

- (1) frequent visits to police stations or police posts;
- (2) observations on the ground during specific policing activities;
- (3) inspection inquiries (inspections of other monitoring bodies or thematic inquiries) aimed, for example, at checking police officials' respect for fundamental rights and freedoms or at ensuring that police operations are optimally coordinated and that policing in general is efficient;
- (4) carefully reading open sources on police- and security-related matters which are not necessarily the subject of a complaint or a report of police misconduct to Committee P.

To promote exchange of information, cooperation and consultation, mechanisms for passing on information have been introduced through agreements entered into with the Federal Police, the local police zones and the General Inspectorate of the Federal and Local Police.

Other information-sharing and cooperation agreements have also been signed with organisations such as Unia and Myria.

.....
¹³ Article 26 of the Organic Law of 18 July 1991.

¹⁴ Article 14, para. 3 of the Organic Law of 18 July 1991.

¹⁵ Article 9, para. 2 of the Organic Law of 18 July 1991.

8.3 Investigations

Standing Committee P or, in certain cases, Investigation Department P may open an investigation at any time.

Standing Committee P may decide to take such action:

- on its own initiative;
- at the request of the Chamber of Representatives;
- at the request of a (judicial or administrative) police authority;
- at the request of any competent (federal or regional) minister;
- at the request of any other competent authority;
- in response to a complaint or report of police misconduct by anybody.

Meanwhile, Investigation Department P may take action:

- at the request of Standing Committee P;
- on its own initiative, in which case it will immediately inform Standing Committee P, which will decide whether the investigation should be pursued and if so, what form it should take;
- at the request of the public prosecutor, the labour prosecutor, the federal prosecutor or the prosecutor general at the Court of Appeal or the competent examining magistrate. If action is being taken at the request of the competent examining magistrate, Investigation Department P will work within the framework of the investigation and therefore under the supervision of the aforementioned magistrate.

9. Inspection inquiries

9.1 What is an inspection inquiry?

The performance of inspection inquiries is Standing Committee P's most significant core responsibility. Every year, some 15 inspection inquiries are performed on the Committee's initiative or at the request of Parliament or of one of the administrative or judicial authorities.

During such inquiries, Investigation Department P, under the authority and acting on the orders of Standing Committee P, will go beyond the level of a one-off complaint to assess more general issues at a broader, more systematic level.

These inquiries by their very nature are not judicial, administrative or disciplinary. Finally they are completely *sui generis* as they are conducted only by and under the supervision of Standing Committee P.

They may cover a very wide variety of issues and relate to the operation of an entire police corps (e.g. the X Police Zone), a unit of a police corps (e.g. a local investigation team or a unit of the Federal Police's traffic police) or of a force (e.g. Customs' investigation team, the Directorate-General for Supervision of Social Legislation). They may also be more thematic, e.g. investigating how police forces are using their powers to conduct body searches or make arrests, the organisation and operation of information management in the integrated police or some of its constituent parts, diversity policy and anti-racism policy in the police, how the police forces treat the mentally ill, driving of police vehicles and traffic accidents involving them, the wearing of symbols in the police, and the approach to financial and economic investigations in the federal judicial police.

Overall, while it is true to say that these inspection inquiries may relate to a very wide range of police and security issues, they all retain a link with Committee P's *raison d'être*, namely monitoring of the respect for and/or the active promotion of human rights and effectiveness, efficiency and coordination in the police forces.

The purpose of these inspection inquiries is always to draw up a number of conclusions and recommendations for the police authorities and forces.

On its own initiative or at the request of the special committee charged with providing parliamentary support for the Standing Police Monitoring Committee and the Standing Intelligence Agencies Review Committee, Committee P also follows up on its previous recommendations periodically or on an *ad hoc* basis. In this connection, it conducts special follow-up inquiries.

9.2 Is it possible to consult an investigation dossier?

All inspection inquiries culminate in a report submitted to Parliament. This report sets out in general terms the investigations or checks carried out and includes the conclusions relating to the texts, activities or methods liable to compromise the respect for citizens' fundamental freedoms and constitutional rights and the effectiveness of the police.

If the investigation was launched at the request of the competent minister or authority, a copy of the report will be submitted to this minister of authority. This will remain confidential until it is communicated to the Chamber of Representatives. The competent minister or authority may also be informed by a general or specific report, following a complaint or report of police misconduct or a set of complaints or reports of such misconduct.

The competent minister or authority may confer with Committee P regarding a specific report or several inquiry reports and their conclusions. The Committee may also propose such an exchange of views itself. In addition, the competent minister or authority will inform Committee P of the steps taken in response to its conclusions.

After any opinion received from the competent minister or authority, Committee P may decide to publicly disclose all or some of its reports and conclusions, in the manner that it deems fit in accordance with its internal rules of procedure. Due to their confidential nature (for privacy reasons or due to the secrecy of an ongoing pre-trial investigation or to protect the physical integrity of certain persons), certain investigations will be made public only after a number of years, if at all. These reports are of course always submitted to Parliament.

10. How are complaints and reports of police misconduct investigated?

10.1 Complaints and reports of police misconduct

Any citizen may lodge a complaint, submit a report of police misconduct or communicate information to Committee P regarding the operation or conduct of an intervention by a police force or one of its officials. This information may relate to personal behaviour running counter to police ethics (rudeness, improper behaviour, late intervention, etc.) or organisational or structural problems, i.e. related to the structure of the police force and its organisation or operation.

Any police official has an equal right to lodge a complaint and need not request the authorisation of their superiors, nor may they be disciplined for doing so.

In certain cases, if the informant makes a specific request accordingly, Committee P may protect his or her anonymity, taking all the appropriate measures to this end. His or her identity will then be known only to Standing Committee P and Investigation Department P.

Committee P examines more specifically complaints and reports of police misconduct relating to an organisational failing or a serious failing, fault or negligence by an individual.

10.2 Notification and motivation on closure of an investigation

At the end of an investigation, Committee P will draw up its conclusions and will also give its opinion on whether or not the complaint or allegations is/are justified. In some instances, recommendations are drafted and sent to the police chief, the head of a particular service and/or the police authority in question.

The complainant or informant is notified, in general terms, of the findings of the investigation.

However, Committee P may also decide to (temporarily or permanently) close a case relating to a complaint or a report of police misconduct or to close it without taking any further action. This will apply in particular if:

- Committee P is not competent *ratione materiae* or *ratione personae*¹⁶;

.....

¹⁶ Committee P's non-competence is either *ratione personae* (where the complaint does not relate to a police force or a police official), *ratione materiae* (most often

- the complaint or report of misconduct is clearly unfounded¹⁷ or irrelevant¹⁸; is insufficiently substantiated¹⁹ or not backed up by any hard evidence²⁰;
- the complainant or informant cannot be tracked down, refuses to cooperate or drops the complaint;
- the General Inspectorate of the Federal and Local Police, a specifically internal monitoring body or any other *ad hoc* specific institution or service is already examining the case.

The decision to close a case or take no further action must also be communicated and justified to the complainant or the informant. However, where relevant or useful, some details from such cases may be passed on, for information purposes, to the police force in question.

10.3 Investigation of a criminal offence

If allegations constituting a criminal offence are reported, they will be disclosed to the judicial authority, which has exclusive competence in this regard. This does not preclude opening an inspection case at the same time, relating to the aspects of the allegations that do not constitute a criminal offence.

Criminal investigations by Investigation Department P

Investigation Department P is not just Committee P's investigation arm. It is also involved in sensitive or complex cases as a specialist police entity. As such, it conducts criminal investigations when the perpetrators of the crime are members of a police force or officials with investigative powers. However, Investigation Department P is not a 'police for the police' that intervenes solely and systematically when an offence is committed by a police official or a member of an inspection entity. On its own initiative or at the request of the prosecutor general, the public prosecutor, the labour prosecutor, the federal

2.

where the case is examined by the judicial authorities or where the subject of the complaint falls outside the scope of police operations).

¹⁷ These are complaints that unreasonably challenge police officials' authority to make an intervention despite its legal basis. One example in the field of road traffic would be where the complainant disputes a fine or a test which is legally sound.

¹⁸ These are often complaints formulated in general terms and expressing general dissatisfaction with society or democratic institutions.

¹⁹ These are complaints relating to a specific police intervention, which may be justified but do not include sufficient details to substantiate the disputed police intervention (e.g. information on the place, time, those in attendance, circumstances, consequences, etc.).

²⁰ These are complaints which are vaguely or unclearly formulated, most often based on unrealistic expectations of the police forces in question.

prosecutor or the competent examining magistrate, Investigation Department P conducts these investigations, in parallel with the other judicial police officers and agents and even with a right of priority over these. As a result, this covers both information under the authority of the Public Prosecutor's Office and investigations under the authority of the examining magistrate, in accordance with the provisions of the Code of Criminal Procedure and certain special laws relating to judicial police officer and agent powers (e.g. the Law on pre-trial detention).

In this connection, the Director-General, the two Deputy Directors-General and the members of Investigation Department P hold the capacity of 'judicial police officer, assistant of the public prosecutor'.

However, the Organic Law of 18 July 1991 expressly states that the performance of these criminal investigations must not jeopardise the performance of Investigation Department P's other duties. By "other duties" we mean especially, but not exclusively, inspection inquiries, complaints and reports of police misconduct. By ensuring that the number of investigators legally responsible for criminal investigations does not exceed half of Investigation Department P's staff and by making the Chairman of Committee P responsible for arbitration, the legislature clearly expressed its desire to limit the criminal investigations requested of Investigation Department P by the magistracy to (serious) allegations justifying recourse to specialist investigators with special powers, in accordance with Committee P's specific duties. This desire was confirmed in the Ministerial Directive of 22 September 2011 organising the division of labour regarding judicial police duties for crimes and offences involving police officials. This gives Investigation Department P priority for investigations against members of the police for crimes and offences committed in the course of their policing (or directly related to this) and constituting a breach of citizens' fundamental rights and freedoms.

10.4 Transfer of powers²¹

Committee P examines some of these complaints and reports of police misconduct itself (sometimes calling on the assistance of Investigation Department P) but leaves most of them to the police corps.

Standing Committee P may decide, if it considers that the allegations reported to it do not relate to organisational problems or serious personal errors, problems or negligence, to transfer the power for handling these allegations to the relevant police official, namely the General Commissioner of the Federal Police, a local police chief or the head of the other police forces referred to in Article 3 of the Organic Law of 18 July 1991.

.....
²¹ Article 10, para. 4 of the Organic Law of 18 July 1991.

]In case of such a transfer of powers, the police forces handle these complaints and reports either completely by themselves or under the supervision of Committee P.

In this way a substantial proportion of complaints and reports are handled by the forces themselves, helping boost the public's trust in the police, which was one of the reasons for establishing Committee P in the first place.

Under Ministerial Circular CP3 of 29 March 2011 concerning the internal monitoring system in the two-tiered integrated police²², it is the responsibility of the entity to which the complaint or report has been transferred to notify the complainant or the informant accordingly.

When closing the case, this entity notifies Committee P of the conclusions of its investigation and the measures taken.

10.5 Possibility of obtaining a second opinion from Committee P²³

If handling powers are transferred, the notification to the complainant or the informant will indicate that if the latter has an objection to the conclusions of the investigation communicated by the police force when closing the case, it may ask Committee P to reconsider its complaint or report of police misconduct.

This is not a right to appeal per se but an opinion based on additional information Committee P may request from the police forces involved so that it can decide on its position on how the investigation was conducted.

This makes Committee P the ultimate guarantor for the effective handling of complaints, including those examined by the internal monitoring bodies and the General Inspectorate of the Federal and Local Police.

10.6 Committee P inspections of other monitoring bodies²⁴

As well as requests for a second opinion, Committee P provides general monitoring of the quality of handling of complaints and reports of police misconduct. This external oversight of the handling of complaints and reports of police misconduct helps ensure a rigorous, thorough examination of such complaints and reports by the police forces in question. Committee P is committed to promoting the application in this regard of a number of criteria and standards and sees to it that these are met.

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²² Belgian Official Gazette of 21 April 2011 (in Dutch and French).

²³ Article 10, para. 4 of the Organic Law of 18 July 1991.

²⁴ Article 14*bis* of the Organic Law of 18 July 1991.

Providing this type of monitoring in an effective manner necessarily requires Committee P to be aware of any complaints affecting police forces and handled at another level (General Inspectorate of the Federal and Local Police or specifically internal monitoring bodies).

10.7 Disciplinary procedures

Under Article 26 of the Law of 13 May 1999 establishing the disciplinary status of police personnel²⁵, the Chairman of Committee P has a binding right to issue instructions to the disciplinary authorities. In other words, if the Chairman of Committee P informs the disciplinary authority of allegations which may constitute a disciplinary offence, this authority must investigate whether to actually launch disciplinary proceedings for the actions in question. The disciplinary authority must also keep the Chairman of Committee P informed of the follow-up to this request. This does not mean that it has to initiate disciplinary proceedings. In simple terms, it must check whether the actions justify such proceedings and then communicate its decision²⁶. Against this backdrop, we should stress that Committee P itself has no disciplinary powers and cannot impose such sanctions on members of the police.

Similarly, under Article 23 of the Organic Law of 18 July 1991, if during an investigation a member of Investigation Department P finds evidence of behaviour that could constitute disciplinary misconduct, the Director-General of Investigation Department P must immediately inform the relevant disciplinary authority.

10.8 Mediation

Finally, it is worth pointing out that Committee P does not have a mediation role but the General Inspectorate of the Federal and Local Police can perform such a function.

.....
²⁵ Article 23 of the Organic Law of 18 July 1991.

²⁶ Pyl, G. and Liners, A., *Discipline, Manuel pour les fonctionnaires de police dirigeants [Discipline: Handbook for senior police officials]*, Brussels, Politeia, 2005, p. IV/4 (in French).

11. What are our specific investigation methods?

Within the limits of their specific non-judicial powers and the rules governing the preliminary inquiry and investigation, Standing Committee P and Investigation Department P have various investigative methods available to them.

Notwithstanding the legal provisions relating to immunity (e.g. diplomatic immunity) and the attachment of privilege system, Standing Committee P and Investigation Department P may convene to grant a hearing to any individual for whom they deem this necessary. Members of the police, of the CUTA and of the support services must respond to any written summons they receive and may give evidence on matters covered by professional secrecy.

The Chairman of Committee P may use bailiffs to have members of the police called as witnesses.

Such persons are required to give evidence on oath or be liable to criminal prosecution. They are required to divulge to Committee P any confidential information to which they may be privy, except information pertaining to a criminal investigation. If the police official feels that he or she should not disclose the confidential information on the grounds that to do so would put another person's safety at risk, the matter will be referred to the Chairman of Committee P (for members of the police) or to the Chairmen of Committees P and I (for members of the CUTA or of a support service).

Standing Committee P and Investigation Department P may request the assistance of experts or interpreters.

The members of Investigation Department P have the power to conduct searches in locations where personnel of a police force within the meaning of Article 3 of the Organic Law of 18 July 1991 (i.e. the Federal Police, the Local Police and any entity whose members hold the capacity of judicial police officer or agent), of the CUTA or of the support services perform their duties and seize any items or documents relevant to the investigation, except those relating to an ongoing criminal investigation, and may request the assistance of the law enforcement authorities to this effect.

Standing Committee P and the Director-General of Investigation Department P may also impose binding response times on the police.

12. How to contact Committee P

Rue de la Presse 35/1, 1000 Brussels, Belgium

Tel.: +32 (0)2 286 28 11

Fax: +32 (0)2 286 28 99

Email: info@comitep.be

Website: www.comitep.be, where you can find out more, e.g.:

- details of how to lodge a complaint;
- reports on inspection inquiries conducted;
- annual reports;
- general information;
- useful links.

13. Imprint

This brochure is produced by the Standing Police Monitoring Committee.

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