

Trends in Crime Rates, Certainty of Punishment and Severity of Punishment in the Netherlands

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Abstract

This paper addresses the interaction between crime rates and sentencing policies in the Netherlands, a country generally known for its relatively lenient treatment of criminals. The first section describes major changes which have taken place in Dutch crime policy and criminality over the last twenty years. The second part of the paper speculates about the interplay between, respectively, certainty and severity of punishment and crime rates in the Netherlands. The major source for the description of developments in Dutch crime and crime policy is the recently published government policy document *Sameleving en Criminaliteit: Een Beleidsplan voor de Komende Jaren* (1985), supplemented by other government reports, criminal justice statistics, and scholarly publications.

In this study, no attempt is made to address the profound problems and criticisms that arise from the use of aggregated data to study general deterrence. We lack, at this point, the necessary data to provide sophisticated time-series analyses appropriate for such an endeavor. Rather, our efforts are directed at providing a general description of some of the more important changes which have taken place in Dutch criminal justice policy and crime, with some speculative comments about possible implications for deterrence theory.

Changes In Crime Rates

Recorded crimes have increased almost tenfold since 1960. In 1960 130,000 offenses were recorded by the police and in 1984 about one million. Annual increases have been particularly high since the second half of the 1970s (*Ministerie, Society and Crime*, 1985:7).

The rise in the crime rate (per 100,000 people between 12 and 79) has also been significant (see Table I). The greatest increase has taken place in property crime. The total property crime rate has increased more than seven times between 1950 and 1982 (from 774 to 5,907). Strikingly, the burglary rate in 1982 (2,158) was almost forty times higher than the 1950 rate for burglaries (54). Pickpocketing has increased from a low rate of 7 in 1950 to a rate of 119 in 1982. The shoplifting rate in 1982 (346) was about twelve times higher than the 1950 rate (27). Malicious destruction of property also has shown a sharp rise— from 44 per 100,000 in 1950 to 759 per 100,000 in 1982.

Table I
Crimes Known to Police (Rate per 100,000 People Aged Between 12-79) (1950-1982)

	1950	1960	1965	1970	1975	1976	1977	1978	1979	1980	1981	1982
Public order and authority ¹	27	26	26	35	40	45	49	53	55	61	67	72
Violence against the person ²	119	102	88	90	96	116	117	120	132	132	141	142
Malicious destruction of property	44	49	72	105	239	284	379	462	520	616	660	759
Property crimes (Total)	774	921	1,171	1,908	3,252	3,713	3,709	3,663	3,885	4,436	5,159	5,907
bike theft	106	221	269	323	801	981	961	912	941	1,038	1,184	1,378
car theft	2	8	18	46	99	93	98	106	120	127	148	166
burglary	54	93	166	440	947	1,050	1,108	1,139	1,283	1,517	1,872	2,158
pickpocketing	7	6	5	9	35	49	36	44	62	95	108	119
shoplifting	27	47	82	117	165	198	181	218	233	276	314	346
Against morality (Total)	96	101	95	84	65	67	67	69	70	71	70	74
Forcible rape	—	—	—	—	—	—	—	7	8	7	7	9
Criminal Code (Total) ³	1,154	1,262	1,494	2,271	3,738	4,272	4,375	4,426	4,727	5,392	6,174	7,043
Road Traffic Act	—	150	210	365	430	483	536	577	613	644	668	665
Narcotics Act	—	—	—	—	26	33	33	39	69	47	74	71
Firearms Act	—	—	—	—	23	25	25	25	25	25	27	26
Total ⁴	1,182	1,419	1,708	2,660	4,230	4,826	4,986	5,088	5,485	6,145	6,972	7,835

¹Crimes against public order and authority include a large variety of acts, such as disturbance of the peace, violence against persons or property in conjunction, refractoriness, interference with public officials.

²Violence against the person covers a wide variety of behaviors: homicide, manslaughter, simple and aggravated assault. We have excluded the category "insult" from the rate presented here.

³The "total" rate for violations of the Criminal Code does not equal the sum-total of the individual categories of crime, because not all individual offenses have been listed.

⁴The grand total does not equal the sum total of each row, because not all individual offenses have been listed.

Source: *Maandstatistiek Politie, Justitie en Brand-weer*, 1976, 1979, 1983

The offense category "against morality" covers a wide variety of behaviors, ranging from forcible rape, sexual assault, pornography, providing intoxicated minors with alcohol, and incest to promoting prostitution. Starting in the late 1960s, there has been a growing tendency to decriminalize the victimless offenses against morality—offenses which traditionally have not been considered enforcement priorities in The Netherlands in the first place (Sociaal en Cultureel Planbureau, 1982:178-179). Examination of Table I shows a downward trend in these offenses, beginning in 1960.

From 1965, rates for the category "violence against persons" have steadily been climbing. However, "violence against persons" covers offenses widely varying in seriousness—from homicide and manslaughter to insult, which makes the police figures in the area of violent offenses not very useful. Court statistics show that, although murder and manslaughter, rape and robbery with violence still made up only a fraction of the known crimes in 1983 (about 1,500 cases altogether), convictions for these violent crimes have increased tenfold since 1960 (Ministerie, Society and Crime, 1985:8-9).

The growth of serious crimes has been particularly rapid over the past few years. The rate of violations of the Narcotics Act, for example, almost tripled between 1975 and 1982. The number of convictions increased from 1,402 in 1978 to 2,180 in 1983, and in addition there has been a shift from offenses involving soft drugs to those involving hard drugs (Ministerie, Society and Crime, 1985:9). Furthermore, quantities of hard drugs seized have also shown a distinct increase.

Table II
Percentage of Dutch People Over Age 15 Who Were Victims of an
Offense, 1973-1979

	1973	1974	1975	1976	1977	1978	1979
	Percent						
Cycle theft	4.0	3.0	4.5	5.4	5.9	5.7	7.5
Moped theft	7.0	10.0	6.5	4.0	4.2	4.5	3.9
Car theft	—	.5	.4	.5	.6	.3	.5
Theft from car	2.0	2.0	1.7	3.0	2.3	2.3	3.4
Pocketpicking/purse snatching	1.0	1.0	1.7	3.0	2.3	2.5	2.8
Burglary	.9	.7	1.1	1.1	1.2	1.2	1.7
Vandalism	—	—	5.0	5.9	6.8	7.7	9.7
Indecent assault	—	—	1.1	1.3	1.5	1.4	1.5
Threatening or violent behavior in the street	—	—	1.5	2.5	2.6	2.8	3.2
Innocent party involved in "hit and run" accident	—	—	1.0	1.0	.9	.9	1.2

Source: van Dijk and Steinmetz, 1980:8

Finally, and not surprisingly, the rate of reported felonious violations of the Road Traffic Act has also risen sharply—from 150 per 100,000 in 1960 to 665 in 1982.

The results of victimization surveys confirm that the increase in crime recorded by the police reflects a real increase in crime, rather than changes in the readiness of citizens to report crimes or better recording by the police (Ministerie, Society and Crime, 1985:8). Between 1973 and 1979, the proportion of Dutch people who were victims of bike theft, purse snatching or pickpocketing, and burglary more than doubled (Table II). There was almost twice as much vandalism in 1979 as in 1975. In 1979 almost one-tenth of the sample indicated that they had been victimized by an act of vandalism in the recent past (Table II). The percentage of people who reportedly were victimized by "threatening or violent behavior in the street" also doubled between 1975 and 1979 (from 1.5% to 3.2%) (Table II).

Table III shows that the rise in reported victimization has persisted into the early 1980s. With the exception of sexual assault and "threatening or violent behavior in the street," the figures for 1981 and 1982 are higher than for the previous years. Vandalism decreased in 1982, but only by 2 percentage points.

Table III
Development of Criminality Between 1975 and 1982 Based on Victimization Figures, Expressed Relative to the Base Year 1980 (1980 = 100%)

Type of Offense	1975	1976	1977	1978	1979	1980	1981*	1982*
Bike theft	64	80	76	73	100	100	106	105
Moped theft	—	—	120	100	100	100	100	103
Car theft	150	150	150	100	150	100	100	102
Theft from car	73	120	93	93	133	100	122	123
Pocketpicking/purse snatching	65	115	92	96	108	100	117	100
Burglary	73	73	80	80	106	100	112	132
Vandalism	48	57	66	74	94	100	104	98
Sexual assault	73	87	100	93	107	100	100	74
Threatening or violent behavior in the street	37	61	63	68	80	100	97	87
Innocent party involved in "hit and run" accident	71	71	69	69	86	100	136	166

Source: *Samenleving en Criminaliteit*, 1985:117

*Figures for 1981 and 1982 are estimates.

A comparison between victimization rates and patterns in the Netherlands and the United States shows that the rates of purse theft and street attack are surprisingly higher in the Netherlands than in the United States, and rates of street robbery are about the same (Block, 1984:26). Block speculates that

perhaps the great density of the Dutch population, the greater pedestrian use of streets in the Netherlands, and the large amounts of cash carried by the Dutch may explain part of the differences in rates of assaults and purse thefts between the two countries. Also, Dutch assaults are less likely to be gun attacks than American assaults.

The conclusion, that, perhaps, the Netherlands no longer lives up to its widely-accepted image of a low-crime country, is further borne out by an examination of crime trends and figures for other Western European countries. Table IV provides comparative crime figures for the Netherlands, England and Wales, Sweden and West Germany. Because of differences in population base used for the calculations of rates per 1,000, direct comparisons between crime rates should be made with caution. It appears that the Dutch crime rate in 1983 (76) was fairly close to that of England and Wales (62) and West Germany (71). The considerably higher rate for Sweden (107) may partly be explained by the rather narrow age range (14-67) used in Sweden's calculations. Perhaps more meaningful is a comparison of changes in crime rates between 1975 and 1983 in the four countries. The Dutch crime rate doubled between 1975 and 1983 (from 38 to 76), as compared to an increase of 44.0% in England and Wales, 27.0% in Sweden, and 51.0% in West Germany. Apparently, then, the rate (and number) of reported crimes has increased much faster in the Netherlands than in the three other countries.

Changes In Certainty Of Punishment Cetainty Of Arrest

The public's willingness to report crimes to the police has decreased significantly over the last years (see Table V). In 1975, over half of the people who had been the victim of a crime filed a police report; in 1982, less than one-third of all crime victims actually reported their victimization to the authorities (Ministerie, Samenleving en Criminaliteit, 1985:118). The most marked decrease in the public's willingness to report was in certain forms of property crimes and assault. For example, in 1973, 61.0% of the pickpocketing incidents were reported to the police, but in 1982, only 49.0% of these cases ended up in the police records. Similarly, only 21.0% of the assault cases were reported to the police in 1982—a decrease of 13 percentage points since 1973 (Ministerie, Samenleving en Criminaliteit, 1985:118).

The decreased willingness to report crimes to the police may reflect the increasing loss of confidence in the police's job performance. Whereas in 1967, 81.1% of a sample of respondents (strongly) agreed with the statement: "The police do an excellent job," in 1980, the agreement with this statement had decreased by 10 percentage points (to 70.9%) (Sociaal en Cultureel Planbureau, 1982:176).

Table IV
Crimes Known to Police¹ for The Netherlands, England/Wales, Sweden, and West-Germany (1975-1983) (1975 = 100)

Year	Netherlands			England/Wales			Sweden			West Germany		
	abs (x 1000)	Rate ²		abs (x 1000)	Rate ³		abs (x 1000)	Rate ⁴		abs (x 1000)	Rate ⁵	
1975	402.1 (100)	38 (100)		2,105.6 (100)	43 (100)		690.1 (100)	84 (100)		2,919.4 (100)	47 (100)	
1976	467.5 (116)	43 (113)		2,135.7 (101)	43 (100)		727.7 (105)	88 (105)		3,063.3 (105)	50 (106)	
1977	485.2 (121)	45 (118)		2,463.0 (117)	50 (116)		766.9 (111)	93 (111)		3,287.6 (113)	54 (115)	
1978	498.0 (124)	45 (118)		2,395.8 (114)	49 (114)		726.8 (105)	88 (105)		3,380.5 (116)	55 (117)	
1979	545.6 (136)	49 (129)		2,376.7 (113)	48 (112)		745.3 (108)	89 (106)		3,533.8 (121)	58 (123)	
1980	623.1 (155)	55 (145)		2,520.6 (120)	51 (119)		856.3 (124)	103 (123)		3,815.8 (131)	62 (132)	
1981	723.5 (180)	63 (166)		2,794.2 (133)	56 (130)		864.3 (125)	103 (123)		4,071.9 (139)	66 (140)	
1982	832.8 (207)	72 (189)		3,088.3 (147)	62 (144)		912.7 (132)	109 (130)		4,292.0 (147)	70 (149)	
1983	983.5 (222)	76 (200)		3,071.0 (146)	62 (144)		888.9 (129)	107 (127)		4,345.1 (149)	71 (151)	

¹Not including traffic offenses

²Per 1,000 people between the ages of 12 and 79.

³Per 1,000 people

⁴Per 1,000 people between the ages of 14 and 67.

⁵Per 1,000 people 14 years of age and older.

Source: *Samenvatting en Criminaliteit*, 1985:115

The percentage of crimes "cleared by arrest" also shows a consistent and significant decrease since 1960. The absolute number of crimes cleared by arrest has increased, but the relative proportion of solved crimes has decreased considerably over the last two decades. In 1960, 58.0% of the reported crimes were cleared by arrest; in 1968, 47.0%; in 1972, 36.0%; in 1976, 33.0%; in 1980, 30.0%, and in 1983, 26.0% (Ministerie, *Samenleving en Criminaliteit*, 1985:20). When traffic offenses are excluded, the clearance rate has decreased even more (see Table V). For instance, in 1983 only 22.0% of the crimes known to the police (excluding traffic offenses) were solved by arrest (Ministerie, *Samenleving en Criminaliteit*, 1985:116). The most significant decrease in clearance rates involves property crimes in general and "malicious destruction of property" in particular.

Table V
Crimes Reported to Police (in Percentage of Victimization Rates) and
Crimes Cleared by Arrest (in Percentage of Crimes Known to Police)
(1975-1983)

Year	Crimes Reported to Police	Crimes Cleared by Arrest
1975	55	28
1976	49	28
1977	44	26
1978	44	26
1979	41	26
1980	32	24
1981	31	24
1982	30	22
1983	—	22

Source: *Samenleving en Criminaliteit*, 1985:118

Certainty Of Prosecution

Even if there is sufficient evidence to prove that someone has committed an offense, the public prosecutor may still decide not to prosecute on grounds derived from the common interest. This so-called "principle of expedience" ("Opportuniteits principe" referred to in articles 167 and 242 C.P.) was originally intended to authorize the public prosecutor to refuse to prosecute in exceptional situations. However, during the last twenty-five years things have developed in such a way that currently more cases are dismissed than prosecuted (Fiselier, et al., 1982:14). The principle of not utilizing a criminal disposition to deal with a person who has violated the law, unless it is probable that such a disposition is more effective than a noncriminal disposition, has

been deliberate policy since the 1960s. Typically, then, if the prosecutor is of the opinion that the public interest does not demand prosecution, the case is dismissed.

The number of criminal cases registered with the prosecutor's offices increased by 109% in the period 1970-1983. The number of prosecutions over the same period increased by only 70.0%. The percentage of cases registered which actually came before the courts thus fell from 49.0% in 1970 to 39.0% in 1983 (see Table VI) (Ministerie, Society and Crime, 1985:14-15). The decrease in the percentage of cases prosecuted is partly a result of an increasing use of the "public interest" principle embodied in Dutch criminal law. The increased workload per public prosecutor (from 870 to 950 cases) further contributes to the decline in the proportion of cases prosecuted (Ministerie, Society and Crime, 1985:15).

Table VI
Case Disposition by Public Prosecutor (In % of All Processed Cases)
(1970-1983)

Year	Referred for Trial (Vervolging)	Dismissals (Sepot)	Included in Other Case ¹ (Voeging)	Referred for Further Investigation (Overdrachten)	Transactions (Transacties)
1970	49.1	29.9	11.0	10.0	—
1971	45.8	31.9	10.9	11.3	—
1972	45.6	29.2	10.3	14.5	—
1973	45.7	34.1	10.1	10.1	—
1975	49.3	32.8	9.0	8.8	—
1976	49.5	33.8	8.0	8.7	—
1978	48.3	33.4	10.0	8.3	—
1979	47.4	35.2	10.3	7.1	—
1980	45.9	36.4	10.4	7.2	—
1981	43.1	37.5	12.2	7.0	—
1982	43.9	36.1	13.0	7.0	—
1983	39.2	34.7	14.2	6.4	5.5

¹When multiple charges are filed against one person or when several related charges are filed at the same hearing, they may be included in one case, provided it is in the best interest of the investigation (*Criminal Procedure*, Article 259).

Source: *Samenleving en Criminaliteit*, 1985:119

In May 1983 the Property Sanctions Act (Wet Vermogenssancities) went into effect, empowering the public prosecutor to enter into a transaction with the offender under which the latter consents to pay an amount of money (comparable to a fine) without a conviction. Until 1983, the power to transact by prosecutors was limited to minor offenses; in 1983, however, the Criminal Code extended the prosecutor's power to transact to all minor offenses and to serious offenses with up to a maximum penalty of 6 years (Mulder, 1984:XIX). The Property Sanctions Act has also contributed to the drop in the percentage of cases prosecuted.

Table VII

Offenses (x 1,000, Rounded) Known to Police, Dismissals by Prosecutor,
and Convictions by Court (1975-1980)

Offense	Year	Known to Police	Dismissals (Prosecutor)	Convictions (judge)	% Cleared
Public order and authority ¹	1975	4	2	2	95.8
	1978	6	3	2	94.5
	1980	7 (+ 75%)	5 (+ 150%)	3 (+ 50%)	91.5
Violence against person ²	1975	12	5	4	88.0
	1978	16	6	5	79.5
	1980	19 (+ 58%)	8 (+ 60%)	5 (+ 25%)	82.4
Malicious destruction ³	1975	27	3.5	2	30.2
	1978	54	6	3	25.0
	1980	73 (+ 170%)	7 (+ 100%)	3 (+ 50%)	19.7
Property crimes ⁴	1975	346	24	20	NA
	1978	407	28	17	21.2
	1980	506 (+ 46%)	30 (+ 25%)	18 (-10%)	19.3
Against morality ⁵	1975	7	1.5	0	49.8
	1978	8	1.5	0.6	46.8
	1980	8 (+ 14%)	1.5 (+ 0%)	0.5	45.5
Road Traffic Act	1975	46.5	3.5	19	73.2
	1978	65.5	5	28.5	76.8
	1980	75 (+ 61%)	9 (+ 157%)	32 (+ 68%)	73.5
Narcotics Act	1975	3	1.5	1	99.2
	1978	4	2.5	1	97.8
	1980	5 (+ 66%)	3 (+ 100%)	1 (0%)	97.8
Firearms Act	1975	3	1	3	99.2
	1978	3	1.5	2	98.9
	1980	3 (0%)	1.5 (+ 50%)	2 (-33%)	99.6

¹Crimes against public order and authority include a large variety of acts, such as disturbance of the peace, interference with public officials, violence against persons or property in conjunction, refractoriness.

²Violence against the person covers a wide variety of behaviors, such as homicide, manslaughter, simple and aggravated assault, and insult.

³Malicious destruction includes arson and vandalism.

⁴Property crimes include forgery, larceny-theft, burglary, fraud, robbery.

⁵Crimes against morality include forcible rape, sexual assault, pornography, indecent exposure, sexual abuse of children.

Source: *Sociaal en Cultureel Rapport*, 1982:165. Percentages reflecting changes between 1975 and 1980 are calculated by author.

The data with regard to the certainty of prosecution in the Netherlands may be simply summarized: (1) over the last twenty years, a considerable share of all cases have routinely been dismissed; and (2) the likelihood of prosecution decreased by 20.0% between 1970 and 1983 (from 49.1% in 1970 to 39.2% in 1983).

Certainty Of Conviction

In the Netherlands, an overwhelming majority of the cases brought to trial ends in a conviction. Interestingly, in the period 1970-1983, the conviction rate (percentage of the cases brought to trial ending with a conviction) remained unchanged. The conviction rate remained at a constant high level; in approximately 95.0% of the cases brought to trial, a conviction followed (Ministerie, *Samenleving en Criminaliteit*, 1985:120).

Although the percentage of court cases ending in conviction has remained virtually unchanged (95.0%), the total number of convictions has increased consistently. The number of convictions has increased at a slower rate than the number of crimes known to the police or the number of dismissals by the prosecutor (see Table VII). Exceptions to this general pattern are violations of the Road Traffic Act, wherein both the number of offenses known to the police and the number of convictions have increased by two-thirds between 1975 and 1980 (*Sociaal en Cultureel Planbureau*, 1982:165).

The significant role of violations of the Road Traffic Act becomes apparent in Table VIII. Between 1965 and 1981, the number of convictions for Road Traffic Act offenses tripled (from 11,479 in 1965 to 34,053 in 1981). On the other hand, the total number of convictions for Criminal Code violations increased by less than 6,000 between 1965 and 1981 (from 28,340 in 1965 to 34,285 in 1981). Interestingly, the conviction rate (per 100,000) for violations of the Criminal Code remained remarkably constant between 1965 and 1981 (from 231 in 1965 to 241 in 1981). Thus, most of the rise in the number of convictions is the result of the sharply increased figures for violations of the Road Traffic Act.

Table IX provides a more detailed overview of trends in convictions for the main offense categories of the Criminal Code. Overall, it appears that the conviction rates for offenses against the Criminal Code have undergone only slight fluctuations over the last ten years. For example, the conviction rate (per 100,000 people) for crimes against the public order and authority increased from 22.1 in 1970 to 29.5 in 1981 and the conviction rate for malicious destruction increased from 23.3 in 1970 to 30.2 in 1981. The conviction rate for property crimes in 1981 (186.5) was slightly lower than the 1970 rate (189.8) and so was the conviction rate for violent crimes against the person (from 48.6 in 1970 to 44.8 in 1981). The conviction rate for crimes against morality shows a consistent decrease (from 14.9 in 1970 to 5.3 in 1981).

Table VIII
Conviction (in Absolute Numbers and Rates per 100,000) for Serious Offenses (1965-1981)

Year	Criminal Code		Road Traffic Act		Other Acts		Total	
	abs	rate	abs	rate	abs	rate	abs	rate
1965	28,340	231	11,479	93	347	3	40,167	327
1966	29,259	235	11,789	95	378	3	41,426	333
1967	31,103	247	12,206	97	418	3	43,727	347
1968	31,781	250	13,409	105	580	4	45,770	360
1969	30,242	235	13,770	107	813	6	44,825	348
1970	29,799	229	14,355	110	1,180	9	45,334	348
1971	29,326	222	13,840	105	3,102	23	46,268	351
1972	30,182	226	14,435	108	2,929	22	47,546	357
1973	29,604	220	14,641	109	3,344	25	47,589	354
1974	29,439	217	15,394	114	4,758	35	49,591	366
1975	30,563	224	18,834	138	4,833	35	54,230	397
1976	30,285	220	24,281	176	5,598	40	60,164	437
1977	31,323	226	27,565	199	5,607	40	64,495	465
1978	31,069	223	31,153	223	6,079	44	68,301	490
1979	29,938	213	32,283	230	7,276	52	69,497	495
1980	31,878	225	34,304	242	8,883	63	75,065	530
1981	34,285	241	34,053	239	7,864	55	76,202	535

Source: *Criminele Statistiek*, 1969, 1973, 1976, 1981

Table IX
Convictions (in Absolute Numbers and Rates per 100,000) for Selected Serious Offenses Against the Criminal Code

Year	Public Order and Authority ¹		Violence Against Persons ²		Malicious Destruction ³		Property Crimes ⁴		Against Morality ⁵		Total	
	abs	rate	abs	rate	abs	rate	abs	rate	abs	rate	abs	rate
1965	1,966	21.2	5,212	56.1	2,155	23.2	16,510	177.6	2,303	24.8	28,340	204.9
1970	2,199	22.1	4,835	48.6	2,312	23.3	18,867	189.8	1,479	14.9	29,799	299.8
1972	2,105	20.6	4,446	43.5	2,327	22.7	20,170	197.2	1,022	10.0	30,182	295.1
1973	2,079	20.1	4,339	41.9	2,264	21.8	19,955	192.5	866	8.4		
1974	2,136	20.3	4,274	40.7	2,402	22.9	19,701	187.5	831	7.9	29,439	280.1
1975	2,215	20.8	4,218	39.5	2,667	25.0	20,591	192.9	806	7.6	30,563	286.3
1976	2,154	19.9	4,619	42.6	2,867	26.5	19,872	183.4	695	6.4	30,285	279.5
1977	2,482	22.6	4,594	41.9	3,091	28.2	20,414	186.0	667	6.1	31,323	285.5
1978	2,554	23.0	4,804	43.2	3,336	30.0	19,627	176.7	662	6.0	31,069	279.6
1979	2,578	22.9	4,784	42.5	3,449	30.7	18,384	163.4	672	6.0	29,938	266.1
1980	3,160	27.7	5,098	44.7	3,403	29.8	19,539	171.4	613	5.4	31,878	279.6
1981	3,409	29.5	5,182	44.8	3,496	30.2	21,528	186.5	615	5.3	34,285	296.9

¹Crimes against public order and authority include a large variety of acts, such as disturbance of the peace, interference with public officials, violence against persons or property in conjunction, refractoriness.

²Violence against the person covers a wide variety of behaviors, such as homicide, manslaughter, simple and aggravated assault, and insult.

³Malicious destruction includes arson and vandalism.

⁴Property crimes include forgery, larceny-theft, burglary, fraud, robbery.

⁵Crime against morality includes forcible rape, sexual assault, pornography, indecent exposure, sexual abuse of children.

Source: *Criminele Statistiek*, 1973, 1976, 1981

In sum, then, it appears that the rise in the number of convictions has considerably lagged behind the increase in the number of crimes known to the police and the increase in the number of crimes brought to trial. Thus, although the chance of being convicted if brought to trial has remained virtually unchanged (95.0%), the offender in 1981 was much less likely to be brought to trial in the first place, due to the decreases in the percentage of crimes reported to the police, percentage of crimes solved by arrest, and percentage of cases prosecuted.

Certainty Of Imprisonment

The three main sanctions available to a judge upon conviction are (1) imprisonment (for serious offenses); (2) detention or custody (for serious offenses involving negligence and most minor offenses); (3) fines. These sanctions may all be suspended, either completely or partially. A Dutch judge has great freedom in the imposition of sentences. It should be noted that there are no special minimum penalties for separate offenses. There is a minimum of one day imprisonment or a fifty cent fine for all offenses (Fiselier, et al., 1982:1).

Table X provides an overview of the type of sanctions imposed for serious offenses in the 1965-1981 period. Several observations present themselves. First, the total number of sentences involving imprisonment and/or a fine has almost doubled between 1965 and 1981 (from 39,163 to 72,973). Secondly, the proportion of cases receiving imprisonment (either unconditional or partly unconditional, partly conditional) has shown a gradual decrease. In 1961, 29.4% of all convictions for serious offenses received a prison sentence, but in 1981, the percentage of prison sentences has declined to 21.4%. The absolute number of prison sentences increased by 4,426 (from 11,872 in 1965 to 16,298 in 1981). Thirdly, the proportion of cases receiving a fine only remained fairly constant between 1965 and 1977, but started to increase sharply in 1978. In 1981, half of the cases received a fine (either suspended or not suspended) as punishment. The absolute number of fines rose considerably between 1965 and 1981 (from 17,420 in 1965 to 38,063 in 1981).

A more detailed analysis of sentence type by offense type for the period 1978-1983 is given in Table XI. Comparison of 1978 and 1983 figures indicates a slight reversal of the trends noted above. For all the convictions taken together, it appears that in 1983, the relative importance of both conditional and unconditional imprisonment had increased (as compared to 1978), as had the role of "other measures." The relative significance of fines, on the other hand, had decreased slightly by 1983. The increasing significance of "other measures" may be explained by the introduction of community service (as a replacement for prison sentences up to a maximum of 6 months) and the possibility of "transaction" provided by the 1983 Property Sanctions Act.

Table X
Main Penalties In Percentages of the Total Penalties and Measures Imposed In 1965-1981 for Serious Offenses¹

	Imprisonment Only ²				Fine				Total ³			
	(a) Uncon- ditional	(b) Partly Unconditional, Partly Conditional	(c) Total a + b		(d) Conditional	(e) Uncon- ditional	(f) Partly Unconditional, Partly Conditional			(g) Total e + f % abs	(h) Conditional	(i) Combined With Conditional Imprisonment
			Total	% abs			Unconditional	Conditional				
1965	19.1	10.3	29.4	(11,872)	4.4	41.7	1.5	43.2	(17,420)	0.4	19.4	97.1 (= 39,163)
1966	19.4	10.0	29.4	(12,954)	3.7	41.5	1.8	43.3	(17,989)	.4	19.4	96.5 (= 40,091)
1967	19.9	10.1	30.0	(13,128)	3.7	41.5	1.8	43.3	(19,000)	.4	18.4	96.1 (= 42,134)
1968	19.2	10.3	29.5	(13,562)	4.1	42.3	1.8	44.1	(20,206)	.4	18.3	96.6 (= 44,287)
1969	18.3	10.1	28.4	(12,773)	4.7	42.9	2.0	44.9	(20,185)	.5	17.7	96.5 (= 43,365)
1970	18.5	10.0	28.5	(12,954)	4.4	43.2	2.0	45.2	(20,498)	.6	18.0	96.9 (= 43,976)
1971	20.2	10.2	30.4	(14,143)	4.4	41.0	2.0	43.0	(19,979)	.7	17.9	96.6 (= 44,907)
1972	20.1	9.9	30.0	(14,359)	4.5	40.2	2.0	42.2	(20,158)	.9	18.7	96.4 (= 46,054)
1973	19.1	9.6	28.7	(13,792)	4.8	39.9	1.8	41.7	(20,003)	.8	19.7	95.8 (= 45,997)
1975	18.5	8.6	27.1	(14,797)	4.3	40.8	1.8	42.6	(23,361)	.6	21.2	95.8 (= 52,471)
1976	18.2	8.3	26.5	(15,939)	4.1	41.4	1.6	43.0	(25,864)	.7	21.7	96.0 (= 57,803)
1977	16.9	8.8	25.2	(16,570)	3.7	41.8	1.6	43.4	(28,002)	.7	22.3	5.8 (= 61,729)
1978	13.9	7.8	21.7	(14,825)	3.7	48.6	1.8	50.4	(34,427)	.8	19.6	96.2 (= 65,701)
1979	12.8	7.8	20.6	(14,284)	3.5	50.3	1.8	52.1	(36,254)	1.1	18.9	96.2 (= 66,877)
1980	12.3	8.1	20.4	(15,369)	3.5	50.5	1.9	52.4	(39,313)	1.0	18.5	95.8 (= 71,962)
1981	12.8	8.6	21.4	(16,298)	4.0	48.1	1.9	50.0	(38,063)	1.0	19.4	94.8 (= 72,973)

¹No statistical data for 1974 are available.

²Separate figures are available for "detention." However, because of the small numbers involved (always less than .5%), these figures have not been included in this table.

³The "total" column does not add up to 100% because other "secondary" measures may be imposed (e.g., forced labor, publication of judicial verdict, loss of certain rights, loss of property).

Source: *Criminele Statistiek*, 1970, 1973, 1979, 1981

Table XI
Main Penalties and Measures in Percentages of Total Convictions Imposed in 1978 and 1983 for Selected Serious Offenses

Offense Category	Conviction		Unconditional Imprisonment ²		Conditional Imprisonment		Fines		Other Measures	
	1978	1983	1978	1983	1978	1983	1978	1983	1978	1983
Violence against the person ¹	100	100	22.9	23.6	3.3	6.1	68.1	61.9	5.7	8.4
Malicious destruction ³	100	100	11.8	13.3	4.6	7.2	74.8	63.0	8.9	16.5
Property crimes ⁴	100	100	30.1	31.8	6.5	9.5	53.7	46.3	9.7	12.4
Other violations of the Criminal Code	100	100	25.2	25.5	6.1	6.2	61.1	57.6	7.6	10.7
Violation of Road Traffic Act	100	100	18.0	13.2	1.4	2.3	80.3	83.7	.4	.8
Violation of other Acts ⁵	100	100	24.5	28.4	3.5	4.8	67.8	61.4	4.1	5.4
Total	100	100	22.5	23.0	3.6	5.7	69.5	65.0	4.5	6.3

¹The violence against the person category includes a large variety of behavior, such as insult, homicide, manslaughter, and simple and aggravated assault.
²Includes the penalties with a partial conditional imprisonment.

³Malicious destruction includes arson and vandalism.

⁴Property crimes include forgery, larceny-theft, burglary, robbery, fraud.

⁵Violation of other Acts include offenses against the Firearms Act and Narcotics Act among others.

Source: *Samenleving en Criminaliteit*, 1985:121

For the broad category of violent offenses against the person the proportion of convictions receiving unconditional imprisonment increased somewhat, from 22.9% in 1978 to 23.6% in 1983. The proportion of cases involving violent behavior against the person which received conditional imprisonment rose by 2.8 percentage points (from 3.3% in 1978 to 6.1% in 1983). Persons convicted of an aggressive offense were less likely to receive a fine in 1983 than in 1978 (from 68.1% in 1978 to 61.9% in 1983). The use of "transaction" probably accounts for the rising importance of "other measures" in the violent offense category. Community service as a substitute for incarceration has not typically been used for violent offenders (Junger-Tas, 1984).

Convictions for malicious destruction of property have begun to receive proportionally more prison sentences (from 11.8% in 1978 to 13.3% in 1983) and fewer fines (from 74.8% in 1978 to 63.0% in 1983). For this offense category, the use of "other measures" almost doubled (from 8.9% in 1978 to 16.5% in 1983). A comparable development took place with regard to the sanctions imposed for property crimes: the importance of incarceration grew (from 30.1% in 1978 to 31.8% in 1983), while the role of fines declined (from 53.7% to 46.3%).

Sanctions for felonious traffic convictions provide an exception to the trend of increasing use of incarceration and "other measures" and fewer impositions of fines. The proportion of convictions for violations of the Road Traffic Act which received a prison sentence decreased significantly (from 18.0% in 1978 to 13.2% in 1983). On the other hand, proportionally more fines were imposed for felonious traffic violations in 1983 than in 1978 (from 80.3% in 1978 to 83.7% in 1983). These changes most probably reflect the newly developed guidelines concerning the Road Traffic Act (Ministerie, Samenleving en Criminaliteit, 1985:120).

In sum, it appears that the earlier noted development in the direction of consistently increasing use of fines and the parallel decline in prison sentences has not persisted into the early and mid-eighties. That is, the probability of receiving a (conditional or unconditional) prison sentence upon conviction—although still fairly slim—has increased somewhat in recent years, and the chances of receiving a fine have decreased (except for traffic offenses). It should be noted, though, that the 1983 introduction of "transactions" provides a substitute of sorts for the traditional fine.

The introduction of community service in the Dutch penal system may prove to be a significant added sanctioning alternative. Community service projects were introduced, on an experimental level, in 8 districts, in 1981 and 1982. The explicitly stated overriding objective of community service is not to replace fines or probation, but "... to replace prison sentences up to a maximum of 6 months" (Junger-Tas, 1984:5). In the 8 experimental districts, in 1981 and 1982, an average of 11.5% of eligible offenders received community service instead of prison. The evaluation of the community service experiments shows that displacement of custody had indeed taken place: "Community service performers formed a far more serious offender category than fine payers and

were more similar to the short term prison offender category" (Junger-Tas, 1984:33).

Changes In Severity Of Punishment

The Netherlands has typically been depicted in the international criminal justice literature as a country with an extremely lenient penal climate. For example, Van Ruller's (1981) analysis of incarceration statistics for the period between 1837 and 1977 showed that the absolute number of incarcerated persons in the Netherlands remained at a constant level of between 3,000 and 4,000 for the 140 year time period, in spite of the fact that the Dutch population increased from 2.8 to 14 million people. Contrary to the bulk of research conducted in other countries (Blumstein and Cohen, 1973; Blumstein, Cohen and Nagin, 1977; Jakovic, 1977; Greenberg, 1980), Van Ruller concluded that the incarceration rate per 100,000 not only did not remain relatively constant in the Netherlands, but, rather, that there was a constant decline in the rate of incarcerated people per 100,000.

In his 1982 article in the *British Journal of Criminology*, Downes notes that over the 1950-1975 time period, roughly the same proportions of cases led to a prison sentence in both England/Wales and the Netherlands, yet in the Netherlands the daily average prison population had decreased by more than half over the same time period. He argues that almost the whole of this striking change can be attributed to trends in the length of sentences served. Downes points to the fact that the percentage of very short sentences of less than one month increased dramatically during the 25 year period, while longer prison sentences (12 months and over) decreased (Downes, 1982:328). A similar conclusion has been drawn by Hulsman (1978), Fiselier and his colleagues (1982) and Steenhuis and colleagues (1982):

The decreasing prison population is not the result of a decrease in the number of prison sentences, but solely in the length of the prison sentences imposed and their progressive decrease is probably the most striking development in criminal justice in the Netherlands. (Hulsman, 1978:194).

However, examination of the statistics provided in Table XII suggests that the period of sentence shortening may be over. The last few years have seen an upturn in the proportion and numbers of sentences of over a year in length (Downes, 1982:342). There has been a distinct increase in the average duration of sentences. The percentage of unconditional prison sentences of more than one year, for example, rose from 1.4% in 1970 to 3.9% in 1981. The total number of years of detention imposed by the courts has increased by almost 100.0% since 1970 (Ministerie, Society and Crime, 1985:15).

Table XIII gives a breakdown of prison sentences of 3 years or more, by type of offense. The total number of long (i.e., longer than 3 years) prison sentences almost quadrupled between 1965 and 1981 (from 58 to 203). An increasing number of long sentences has been imposed for drug-related offenses (i.e., sale of hard drugs). In 1975, nine prison sentences of more than three years were given to drug offenders; this number had increased to 81 in 1981.

Table XII
Length of Unconditional¹ Sentences of Imprisonment (1965-1981)²

Year	Up to 1 Month		1-3 Months		3-6 Months		6 Months to 1 Year		1 Year		Over 1 Year to 3 Years		3 Years and Over		Total	
	%	abs	%	abs	%	abs	%	abs	%	abs	%	abs	%	abs	%	abs
1965	50.0	5,933	17.3	2,052	15.9	1,886	11.1	1,318	1.6	192	3.6	433	0.5	58	100	11,872
1966	51.1	6,229	16.9	2,057	15.4	1,875	11.6	1,417	1.5	181	3.1	379	.5	55	100	12,193
1967	51.3	6,741	16.3	2,139	15.7	2,055	11.4	1,499	1.5	203	3.3	434	.4	57	100	13,128
1968	53.9	7,315	15.9	2,158	15.9	2,150	10.7	1,450	1.2	166	2.1	284	.3	39	100	13,562
1969	56.9	7,265	14.9	1,902	16.1	2,057	9.2	1,181	1.0	126	1.6	198	.3	44	100	12,773
1970	57.6	7,457	16.7	2,161	15.5	2,012	7.5	978	1.0	127	1.4	184	.3	35	100	12,954
1971	57.2	8,088	16.9	2,391	14.7	2,086	7.9	1,123	1.2	169	1.7	245	.3	41	100	14,143
1972	58.1	8,339	17.3	2,484	14.8	2,121	7.0	1,007	.8	113	1.6	236	.4	59	100	14,359
1973	58.9	8,126	16.9	2,335	14.7	2,024	6.7	930	.7	103	1.5	211	.5	63	100	13,792
1975	56.7	8,394	18.8	2,787	13.7	2,029	6.6	972	1.1	164	2.3	338	.8	113	100	14,797
1976	59.7	9,508	17.7	2,814	12.3	1,966	6.0	959	1.2	197	2.4	384	.7	117	100	15,939
1977	60.1	9,964	16.7	2,773	12.3	2,032	6.3	1,050	1.1	176	2.4	398	1.1	177	100	16,570
1978	57.9	8,586	17.1	2,537	13.1	1,938	7.1	1,047	1.2	175	2.7	397	1.0	195	100	14,825
1979	56.2	8,026	17.7	2,527	13.5	1,924	6.7	961	1.1	159	3.6	509	1.2	178	100	14,284
1980	58.2	8,944	16.5	2,541	12.7	1,959	7.2	1,104	1.0	161	3.2	485	1.1	175	100	15,369
1981	54.7	8,919	17.5	2,847	13.4	2,181	8.1	1,327	1.3	204	3.9	617	1.2	203	100	16,298

¹Including the sentences of partly unconditional imprisonment, the unconditional part of which was counted.

²No data are available for 1974.

Source: *Criminele Statistiek* 1976, 1981.

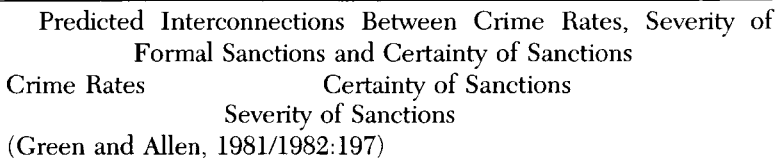
Crime Rates, Certainty Of Punishment, And Severity Of Punishment

What is frequently called "the deterrence doctrine" consists of the proposition that crime rates are a negative function of people's perception of the certainty and severity of a threatened sanction (Green, 1985:630). Whether or not the threat of punishment indeed does deter crime is one of the oldest and most controversial issues in criminal justice. Although efforts to test this proposition have been many and diverse over the last two decades (Gibbs, 1968, 1975; Tittle, 1969, 1980; Chiricos and Waldo, 1970; Zimring and Hawkins, 1973; Andenaes, 1975; Ehrlich, 1975; Erickson and Gibbs, 1975; Logan, 1975; Silberman, 1976; Greenberg, Kessler and Logan, 1979; Grasmick and Green, 1980; Green, 1985; Piliavin, Gartner, Thornton and Matsueda, 1986), the exact manner in which crime rates and sentencing policies interact remains, to a large degree, an unresolved issue. This is not surprising in view of the significant theoretical, methodological and statistical obstacles involved in assessing the impact of different crime policies on crime rates (See, for example, Geerken and Gove, 1975; Blumstein, Cohen, and Nagin, 1978; Minor, 1978; Nagin, 1978; Greenberg, 1981; Hagan, 1982; Decker and Kohfeld, 1985).

High among the many criticisms of cross-sectional and time-series analyses of aggregated data sets ranks the issue of the circularity of the relationship between crime rates, and severity and certainty of punishment (e.g., Fisher and Nagin, 1978). The typically observed negative association between crime rates and sanctions does not necessarily unequivocally support the deterrence proposition; rather, it is quite plausible that crime rates and severity and certainty of sanctions are mutually related. The problem of simultaneity may obscure deterrent effects or complicate interpretations because the causal direction responsible for an inverse crime-sanction relationship is not known (Beyleveld, 1980:129). In other words, high sanction levels may be a response as well as a deterrent to crime, and increased crime rates may result in reduced sanction severity and certainty.

The methodological debate on how best to determine the cause-effect relationship between crime and punishment is far from resolved. On the other hand, on a conceptual level, thinking on the interrelationship between crime and punishment has advanced significantly over the last decade. Green and Allen (1981/1982) represent current theoretical perspectives and empirical findings on crime and sanction severity and certainty in the following diagram:

Figure 1*



*This figure represents but a segment of Green and Allen's "Synthesized Societal Response Model." Their complete model includes the additional variables of social complexity and normative diffuseness.

Table XIII
Prison Sentences of 3 Years or More, by Offense (1965-1981)¹

Offense	1965	1966	1967	1968	1969	1970	1971	1972	1973	1975	1976	1977	1978	1979	1980	1981
Violence against person ²	34	32	19	14	22	16	19	23	20	52	60	62	53	52	61	57
Property crime ³	22	21	36	22	21	19	21	34	43	45	44	72	53	63	51	60
Felonious violation of Road Traffic Act	—	—	—	—	—	—	—	—	—	—	—	1	—	—	1	—
Violation of Narcotics Act	—	—	—	1	—	—	—	—	—	9	11	41	35	62	58	81
Violation of Firearms Act	—	—	—	—	—	—	—	—	—	1	2	—	1	—	1	2
Other	2	2	2	2	1	—	1	2	—	6	—	1	3	1	3	3
Total	58	55	57	39	44	35	41	59	63	113	117	177	145	178	175	203

¹No statistical data for 1974 are available.

²This category includes homicide, manslaughter, aggravated assault, forcible rape.

³This category includes larceny-theft, burglary, robbery, fraud.

Source: *Criminele Statistiek* 1970, 1973, 1979, 1981

The Green and Allen model incorporates, in a concise manner, the “state of the art” of contemporary thinking on crime and legal sanctions. As such, it provides a useful heuristic device for our discussion of the interplay of crime and sanction severity and certainty in the Netherlands.

Crime Rates And Certainty Of Punishment

Researchers have consistently found a significant negative relationship between crime rates and certainty of punishment (See, for example, Gibbs, 1968; Logan, 1975; Blumstein and Nagin, 1977; Nagin, 1978). The available Dutch statistics do lend strong support to the prediction that rising crime rates tend to be accompanied by a loss in the certainty of sanctions. Starting in the mid-sixties, the frequency and seriousness of criminality in the Netherlands have risen considerably. At the same time, the certainty of punishment for Dutch offenders appears to have declined at all stages of the criminal justice process. Specifically, there has been a decrease in citizens’ willingness to report crimes to the police; in the ability of the police to solve the crimes through arrest; in the proportion of cases brought to trial by the prosecutor; in the proportion of convictions (relative to the total number of crimes reported, not relative to the total number of cases brought to trial); and in the proportion of cases receiving a prison sentence. (The proportion of prison sentences has begun to increase again since the early 1980s, however.)

The Green and Allen model predicts a two-way negative relationship between crime rates and certainty of punishment. The deterrence hypothesis postulates that decreased certainty of punishment will result in increasing levels of criminality, due to the public’s perception that the likelihood of formal sanctions for legal infractions has begun to decrease. There is an alternative explanation for the certainty of sanctions/crime rate relationship, however. Proponents of the system-capacity model (Logan, 1975; Shinnar and Shinnar, 1975; Nagin, 1978) argue that increasing crime rates result in decreased certainty, due to the limited resources available to the criminal justice system. In this view, the resources of the criminal justice system do not increase proportionately with increases in the crime rates—hence, rising crime rates cause system overload (cf. Green and Allen, 1981/1982:191).

Unfortunately, we lack the data on changes in the public’s perception of the certainty of punishment which would allow a test of the deterrence hypothesis. It is possible to speculate, though, about how increasing crime rates may have resulted in loss of punishment certainty because of system overload. It is not very difficult to document that the resources of the Dutch criminal justice system have not expanded proportionally with the rising crime rates. The government’s budget for criminal justice increased by only 300.0% in the period 1960-1985—a period during which reported crimes increased almost tenfold. Expressed as a proportion of total government expenditures, there has even been a slight decrease after 1980: the per capital criminal justice expenditure in 1984 was 304 guilders, as compared to 327 guilders in 1980 (Ministerie,

Samenleving en Criminaliteit, 1985:25). Further, although between 1970 and 1983 the number of detectives rose by about 120%, the number of cases to be dealt with per detective almost doubled in this time period because of the sharply increased numbers of crimes reported to the police (Ministerie, Society and Crime, 1985:14). The number of public prosecutors rose from 152 in 1976 to 231 in 1983. The workload of the public prosecutors increased only slightly, partly because of the deliberate policy of dealing with minor offenses by means of a decision not to prosecute. Nonetheless, the number of cases pending increased from 25,000 in 1970 to 94,000 in 1983, as did the time it takes to process cases (from 169 days in 1977 to 208 days in 1983) (Ministerie, Samenleving en Criminaliteit, 1985:118-119).

That the Dutch government is concerned with the apparent low certainty of punishment is clearly reflected in changes in prosecutorial policy proposed in the recently published policy document on crime and criminal justice. One of the central themes of *Society and Crime: A Policy Plan for the Netherlands* (Ministerie, 1985), is the need for

a clear and uniform prosecution policy on the part of the public prosecutions department and action on the part of the Ministry of Justice to ensure that satisfactory effect is given to judicial findings and sentences (Ministerie, Society and Crime, 1985:2)

The policy plan calls for an increase in the proportion of cases that are actually prosecuted. Cases which are currently dropped without further action must be dealt with more frequently by conditional discharges, preferably with a reprimand, or better still, by discretionary settlements or prosecutions (Ministerie, Society and Crime, 1985:30). To increase the certainty of sanctions is a primary concern to Dutch policy makers:

The important point is that conditional charges should be reactivated when the suspect fails to observe the conditions, that unpaid settlements should systematically give rise to prosecution and that penal sanctions imposed in this process should be systematically and rapidly executed (Ministerie, Society and Crime, 1985:30).

Frequently, shortage of prison cells has made it impossible to execute custodial sentences. Although, until recently, the certainty of incarceration has shown a steady decline, the sheer increase in volume of processed cases has placed a heavy burden on the prison system. In 1972, the prison capacity decreased as part of a more general restructuring of the system (Van Ruller, 1981:218). This decrease in capacity coincided with a growing need for more prison places. The 1972 decrease in prison capacity resulted in a serious shortage of prison cells and collective pardons given to people convicted to short-term prison sentences (Van Ruller, 1981:218). A backlog arose in the execution of short prison sentences. In the second half of the 1970s the total available prison and detention capacity gradually increased again from about 3,000 places in 1975 to 3,900 in 1981. Prompted by the deficiencies indicated in the 1981 report *Capacity Problems in the Prison Service*, an expansion program was implemented which has since increased capacity by about 900 places. This expansion was made possible by the reopening of former institutions and the

construction of additional wings. In 1985 the capacity of the Dutch prison system was 4,800 places—an increase of over 50.0% since the mid-1970s.

Despite recent expansions, the prison system still has not been able to absorb the increasingly rapid rise in the numbers of years of detention imposed by the courts. For example, a recently published analysis documents that the “inmate supply” (measured as the average number of years of incarceration given in a certain year) has increased by 43.0% between 1978 and 1983, but that the penitentiary capacity has increased by less than 20.0% over that same time period (Ministerie, Samenleving en Criminaliteit, 1985:122). Since overcrowding is not permitted, Dutch offenders must wait to serve their sentences until room is available. As a result of the cell shortage, prison sentences and detention orders have frequently been postponed or simply not executed.

The government has expressed a serious concern about the effect of this capacity shortage on the credibility of the Dutch criminal justice system. For instance, an effective arrest policy for persons who fail to present themselves for execution of their sentence, or for persons who abscond from detention, is difficult to implement because reservations for places for such persons must be made one year in advance. In many cases persons remanded in custody by judges’ orders cannot be accommodated at all or have to be released prematurely:

It goes without saying that this practice of freeing detainees on remand constitutes a flagrant violation of the principle that, in a state based on the rule of law, orders made by judges must be executed (Ministerie, Society and Crime, 1985:16).

Beginning in 1985, budget allocations have been made for a substantial increase in prison capacity. In the period 1985-1988 the capacity of the prisons will be expanded by about 1,000 places. From 1989, there will be a further structural expansion of about 1,250 places, to be provided by the building of five new prisons. In addition to expanding the structural capacity, temporary penal institutions will be opened at one or two sites (Ministerie, Society and Crime, 1985:4).

Crime Rates And Severity Of Punishment

The Green and Allen model predicts that increases in the rate of criminal behavior will have the simultaneous effects of creating pressures to diminish penalties for, ignore, or altogether decriminalize some actions while instituting harsher penalties for others (Green and Allen, 1981/1982:197). More specifically, increases in those activities which have come to be viewed as essentially private affairs will result in pressures to lessen penalties for, ignore, or decriminalize them altogether. In contrast, increases in the number of acts which violate still intact collective values will result in pressures to crack down on and stiffen penalties for these offenses (Green and Allen, 1981/1982:200).

A detailed analysis of legislative changes and trends in sentencing patterns for different types of offenses in the Netherlands over the last twenty years

would be needed in order to evaluate the predicted relationship between crime rates and severity of sanctions. For present purposes, however, a few brief descriptive comments must suffice. First, it appears that the current trend is in the direction of more severe sentences for violent crimes and drug-related crimes (see Table X). Over one-third of all prison sentences of more than 3 years imposed in 1981 involved violations of the Narcotics Act (see Table XIII). A considerable proportion of violent crimes are committed within the context of the drugs trade (Ministerie, Society and Crime, 1985:11). In the past few years many foreigners have been arrested and tried in the Netherlands for importing hard drugs. This development has contributed to the high proportion of detainees of foreign nationality (Ministerie, Society and Crime, 1985:11). In 1983 more than a third of the inmates serving long sentences were foreign nationals.

In sharp contrast to the increased use of stiffer penalties for drug and violent offenses stand two recent innovations in the Dutch criminal justice system: the transaction and community service orders. Both of these measures are designed to replace short prison sentences, either by means of monetary compensation or through the rendering of one's services to the community. The introduction of these sanctioning alternatives represents, in the view of most, a softening of penalties. These measures have typically been applied to non-violent property offenders and those convicted of malicious destruction of property (Junger-Tas, 1984). (It should be noted that, in the early 1980s, for non-violent property offenders and those convicted of vandalism, the likelihood of incarceration has begun to increase, too.) A shift in the direction of more leniency (i.e., more fines and less incarceration) is also seen in the disposition of felonious violations of the Road Traffic Act (see Table XI). Finally, the trend towards decriminalization or non-prosecution of victimless crimes which started in the late 1960s has persisted into the mid-80s.

The recently adopted government policy's emphasis on "differentiation" is consistent with the noted shifts in sentencing practices. Crime policy, in the words of the government's policy plan, must be differentiated" . . . in the sense that petty crime requires a different approach to that adopted in respect of the more serious forms of crime" (Ministerie, Society and Crime, 1985:2). Dealing with petty crime should primarily be the responsibility of citizens and local governments in cooperation with social service agencies and the focus should be on prevention. The criminal law should only serve as a "backup"—"In the fight against petty crime the criminal justice system should be brought in only in the last resort" Ministerie, Society and Crime, 1985:24). Because of the overloading of the criminal justice system, moderation should be exercised in the introduction of new penal provisions with respect to non-serious criminality, and existing penal measures should be eliminated whenever possible. Even when measures of a preventive nature on the part of citizens and the authorities have failed and judicial sanctions are necessary to deal with a violation of the law, consideration should always be given to the possibility of

applying the remedies of private or administrative law (Ministerie, Society and Crime, 1985:24).

The more serious forms of crime require a completely different type of approach, according to the government's policy plan. Special attention should be devoted to organized crime:

Although precise figures on this type of crime are scarce, there is a definite feeling in police and public prosecution circles that it constitutes a serious danger to Dutch society and that there is a need for prompt action to counter it (Ministerie, Society and Crime, 1985:32).

Certainty of apprehension of organized criminals is to be increased by the improved efficiency of the Central Criminal Information Department. Harsher penalties must be demanded for the big drug dealers in particular, not only through the imposition of stiff prison sentences, but also by the levying of heavy fines in combination with prison sentences. The release of persons on remand under suspicion of drug trafficking or other forms of organized crime "... should be avoided at all costs, repeat: all costs" (Ministerie, Society and Crime, 1985:33).

A related issue concerns that relationship between crime rates and popular attitudes concerning severity of punishment. Generally speaking, the research links increased public demand for more severe measures and increasing crime rates (Green and Allen, 1981/1982:188). Although the Dutch population is apparently concerned with crime, there has been no strong public outcry for a more strict "law and order" approach to crime control (cf. Van Dijk, 1985). Comparison of the responses of two nationwide representative samples in 1975 ($n = 1,219$) and 1985 ($n = 1,697$) to a set of similar questions suggests that the public's support for more repressive measures remained virtually unchanged over the last ten years. In 1975, 72.0% of the respondents thought incarceration a (very) suitable method of crime control (as compared to 71.0% in 1985); 66.0% approved of hard labor as a (very) suitable crime control measure (as compared to 62.0% in 1985); and 78.0% supported more severe punishment (as compared to 70.0% in 1985) (Van Dijk, 1981; Ministerie Samenleving en Criminaliteit, 1985:151).

The 1985 survey further found that there is a great deal of agreement concerning the appropriate sentences for minor property offenses (i.e., over 80.0% supported the imposition of community service or restitution) and serious violent offenses (aggravated assault with a weapon and forcible rape) and large scale drug trafficking (i.e., over 60.0% favored incarceration, although there was disagreement concerning the length of the sentence). Considerably more diversity of opinion was found with regard to the sentencing for habitual burglary, vandalism, or gang-related violence. Prison, community service, and restitution were all mentioned as appropriate sanctions (Ministerie, Samenleving en Criminaliteit, 1985:151).

The same survey also questioned people about the best solution to the shortage of prison space. The majority of the respondents felt that spending money to build new prisons (85.0%), community service instead of incarcer-

ation (84.0%), restitution instead of incarceration (82.0%), and/or more frequent use of fines instead of prison (65.0%) were appropriate solutions to the problem. Furthermore, 51.0% wanted more than one person to a cell, 26.0% supported shorter prison sentences, and 19.0% wanted to commute sentences (Ministerie, Samenleving en Criminaliteit, 1985:151).

Between 1970 and 1981, a general decrease in support for rehabilitation took place. For example, the proportion of respondents strongly disagreeing with the statement that we should change (treat) instead of punish the criminal increased from 6.6% (1970) to 15.8% (1981) (Sociaal en Cultureel Planbureau, 1982:173, 244). This may reflect a loss of confidence in the effectiveness of rehabilitation as a crime control measure rather than simply a rise in punitiveness among the population (cf. Van Dijk, 1985).

A 1980 nationwide survey ($n = 914$) asked respondents to rank from a list of thirteen possible measures the one(s) they would prefer most. The rank ordering based on the most frequently selected favorite measures of crime control was as follows: (1) decreased unemployment (62.0%); (2) more severe punishment (43.0%); (3) crime prevention campaigns (39.0%); (4) better housing conditions (34.0%); (5) more police (35.0%); (6) more leisure facilities for the young (32.0%); (7) more weapons for police (24.0%); (8) less restrictive use of weapons by police (22.0%); (9) more funds for probation, counseling, and so on (22.0%); (10) more harsh treatment for convicts (21.0%); (11) anti-poverty programs (21.0%); (12) more funds for education (18.0%); (13) death penalty (13.0%) (Van Dijk, 1981:6). The preventive measures were selected on the average by 33.0% of the respondents, and the repressive measures by 26.0%. Be it also noted that in the Netherlands support for the death penalty decreased between 1970 and 1981 (from 16.0% in 1970 to 9.9% in 1981) (Sociaal en Cultureel Planbureau, 1982:173).

According to a 1981 survey, the large majority of people (71.6%) believed that crime is increasing strongly in the Netherlands and 85.9% felt that crime in the Netherlands is becoming a real problem (Sociaal en Cultureel Planbureau, 1982:245). Yet, it appears that the public demands a flexible response to crime, supporting a fairly large number of sanctioning alternatives, rather than calling for a more strict "law and order" crime control strategy.

Certainty And Severity Of Punishment

Green and Allen's model predicts a negative relationship between sanction certainty and sanction severity. Not only may certainty have a negative impact on severity, but the literature also suggests that severity may have a negative impact on certainty (Green and Allen, 1981/1982:200-201). The Dutch data do not provide unqualified support for this proposition. Until a few years ago, the constant and steady decline in punishment certainty in the Netherlands was accompanied by a parallel decrease in the frequency and length of prison sentences imposed. It is possible that the recently started trend towards slightly longer prison sentences for certain offense types reflects a response to the loss

of punishment certainty. By the same token, it is equally plausible that it was the persistent loss of punishment severity which resulted in the newly proposed policy changes designed to increase sanction certainty in the Netherlands.

Conclusions

What do the Dutch statistics tell us about the interplay between crime rates and sanction severity and certainty? Within the methodological and theoretical limitations inherent in the use of aggregated statistics, several tentative observations present themselves.

First, the predicted negative relationship between crime rates and certainty of punishment is consistently supported by the present data: Rising levels of criminality have been accompanied by a persistent decline in the certainty of arrest, prosecution, and conviction in the Netherlands. Do these rising crime rates reflect a loss of the deterrent effect of certainty of punishment? Or does the loss of sanction certainty result from system overload because of rising crime rates? These questions remain open to speculation. There is ample documentation, however, that the increased levels of criminality have begun to seriously strain the criminal justice system's resources in the Netherlands.

Secondly, the expected negative relationship between crime rates and severity appears to be born out by the bulk of the data. Overall, the severity of formal sanctions has decreased with rising crime rates. This observation may be supportive of the deterrence doctrine: loss of severity of sanctions will result in higher crime rates. The severity/crime link becomes more complex, however, when the most recent developments in sentencing practices are looked at (i.e., the growing use of incarceration, community service, and transactions). Indeed, as Green and Allen's model predicts, rising crime rates may have been responsible for the increasing use of incarceration for the more serious crimes. At the same time, the trend of increasing use of fines for traffic offenses and community service and transactions for non-violent property offenders is consistent with the hypothesis that rising crime rates may have the simultaneous effects of diminishing penalties for some (minor) crimes while instituting harsher penalties for other, more serious law violations. In this context, it should also be pointed out that the expectation that higher crime rates will result in a public outcry for a more punitive method of crime control fails to find empirical support in the Netherlands.

Thirdly, the prediction that a decline in punishment certainty will be associated with an increase in sanction severity was not supported by the observed steady decreases in both certainty and severity of sanctions. Again, only the most recent developments in sentencing practices (i.e., more use of incarceration for particular offenses) seem to indicate a possible reversal of the trend in ever-increasing leniency.

Throughout this paper, repeated reference has been made to particular policy changes outlined in *Samenvleving en Criminaliteit* (1985). The degree to which these proposed policy changes actually will be translated into different

punishment practices and the degree to which they will affect criminality is another question which escapes an immediate answer. But knowing the major concerns of Dutch policy makers may help speculations about future long-term developments in criminal justice practices in the Netherlands.

Generally speaking, the policy recommendations included in *Samenleving en Criminaliteit* appear consistent with Green and Allen's (1981/1982) model. The government document attributes rising crime rates to the public's loss of respect for the law due to the criminal justice system's inability to effectively process the growing volume of offenders. Hence, the government's perceived need for a more efficient Central Criminal Information Department, its recommendation to limit the prosecutors use of the "principle of expedience," and its desire to expand the penitentiary capacity—all measures which are meant to increase the certainty of sanctions. The proposed policy of "differentiation" is consistent with the prediction that increases in the rate of criminal behavior will have the simultaneous effects of creating pressures to diminish penalties for some crimes while introducing harsher penalties for others (Green and Allen, 1981/1982:197). The government's demand for harsher penalties for organized crime and large-scale drug dealers and its desire to limit formal criminal intervention in "petty crimes" simply confirms a shift in sentencing practices which had already started a few years before the publication of *Samenleving en Criminaliteit*.

Finally, this study exemplifies the methodological and substantive problems of analyzing the relationships between crime and severity and certainty of sanctions referred to earlier. The present analysis confirms, once again, that the interplay between crime rates and sanction levels is exceedingly complex and difficult to disentangle. The data seem to suggest that, at the very minimum, there is a need to specify the temporal parameters of the hypothesized severity/certainty/criminality linkages. It is likely, for example, that the short-term effects of changes in sanction levels may be quite different from the long-term effects of fluctuations in sentencing policies. Such specification of the temporal parameters would allow a better determination of the degree of convergence between the general relationships predicted by deterrence theory and the realities of crime and justice in the Netherlands.

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