

De stand van het boa-bestel

Eindrapport over het stelsel
waarbinnen buitengewoon
opsporingsambtenaren functioneren

Mr. A.G. Mein
Prof. mr. A.R. Hartmann

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Juni 2013

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Bijlage 4 Summary

The status of the special investigation system

Final report on the system in which special investigating officers operate

June 2013

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Prof. A.R. Hartmann

Special investigating officers investigate crime, but their investigative authority is limited to specific offences. They are authorized to perform specialized and well-delineated tasks based on special laws (regulatory legislation) and bye-laws of local and regional authorities. It is currently estimated that there are 26,000 special investigating officers who work for more than 850 employers in the Netherlands. Most special investigating officers work for (local and regional) government organizations, a large proportion of which for the police (approximately 8,000). Some, however, also work for private-law legal entities, such as public transport companies and nature conservation organizations.

The Minister of Security and Justice (the Justis agency) may confer investigative authority on special investigating officers if necessary for performing their duties, and subject to the fulfillment of specific requirements on competence (a vocational certificate) and reliability (a certificate of good conduct). Depending on their duties, special investigating officers have police powers (such as to arrest and search suspects) and carry weapons (e.g. a truncheon, handcuffs, or a service revolver). Special investigating officers are identifiable by a distinctive insignia.

The revision of the special investigation system in 2010 was prompted, among other things, by the severe fragmentation of the special investigation function over time, and the corresponding sharp rise in the number of occupations carrying special investigative authority. Furthermore, increasing demands were being made on special investigating officers, including in local security policy and environmental law enforcement. The revision involves a division of the investigative function into six domains, which correspond with five areas of expertise and one catch-all, or residual, category. This structure is intended to facilitate the allocation to each domain of specific, tailored, authorities and weapons, and to define, possibly supplementary, training

requirements. In addition, supervision has been intensified by designating the chief public prosecutor as the general supervisor, and the chief of police (now the head of the regional or national police unit) as direct supervisor.⁸⁵ In other words, the revision of the special investigation system is intended to help strengthen the professional standards of special investigating officers and to raise the quality of investigation.

This study set out to analyse the extent to which these objectives have been achieved in 2013, and to identify where further investments are needed. The study was carried out in the spring of 2013 by the Verwey-Jonker Institute and the Erasmus School of Law of Erasmus University Rotterdam. The legal and policy framework was first reconstructed, then case studies were carried out at eleven employers distributed over the six domains (cf. paragraph 2.2). In this framework, sixty-four interviews were conducted with employers, special investigating officers and supervisors. In order to interpret the findings, twelve interviews were conducted with experts, and professional and interest groups. The picture obtained in this way was compared and contrasted with insights drawn from relevant research literature. The study necessarily involved making a selection from the large number of case studies, and the diverse organizations and special investigating officers. It is consequently impossible to generalize the findings without qualification.

The salient conclusions from the study are as follows. The revision of the special investigation system has definitely clarified the system. The division into six domains provides a useful handle for organizing investigative duties, conferring associated authorities, and establishing training requirements. The investigative authorities and weapons allocated to a domain are generally sufficient. At the same time, the apparent simplicity created by the domain structure can be deceptive. For instance, the functional structure of six domains can sometimes be obstructive in practice, where those involved are actually striving for an increasingly integrated, or problem-oriented, approach. The limited opportunity for the temporary employment of external special investigating officers can also be a hindrance in practice.

After the formal revision of the system has come into effect, the development of professionalism and quality has largely been left to the field. The Ministry of Security and Justice has opted for a hands-off position (system responsibility). For instance, the employers themselves are required to arrange for supplementary training. Although some employers have taken action in line with their responsibility, the effect has been long delays in the materialization of the envisaged professionalization and quality improvement (emancipation) of the special investigating officer. The need to further improve professionalism and quality was endorsed by almost all respondents. In fact it is only now that this improvement has gained momentum, after the

85 There are some exceptions to this (see paragraph 2.1).

ministry imposed higher and additional examination and educational requirements. Furthermore, supervision of the quality and professionalism of the special investigating officer is vested in the police and the Public Prosecution Service. In practice, the supervisors, in view of the sheer number of employers and the available capacity, give insufficient form and content to their supervisory duties. They should also be better equipped from an organizational point of view.

The employers generally exercise organizational control over the special investigating officers. The deployment of special investigating officers is generally embedded in a policy framework. Operational direction by the police manifests itself mainly in the organization and joint execution of special enforcement campaigns. Outside this framework, the opportunities for systematic collaboration between special investigating officers and the police remain insufficiently utilized.

The further improvement of the quality and professionalism of the special investigating officer justifies a more intensive involvement of the Ministry of Security and Justice. This could stem from a clear view of the special investigating officer's law enforcement role, and be facilitated by creating the appropriate conditions for growth in quality. In this framework, the costs for education and training could be distributed more equably over the national government and the employers. Furthermore, there is still room for improvement in some user-friendliness aspects of the special investigation system. For instance, access to the circulars must be made easier, and the field would benefit from speedier progress of the application procedure, the re-examination, and the re-administering of oaths.

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Dit rapport geeft een beeld van de stand van het boa-bestel anno 2013. Dat is het stelsel waarbinnen buitengewoon opsporingsambtenaren (boa's) functioneren. Het stelsel is in 2010 herzien, met als doel de professionaliteit van de boa's te verbeteren en de kwaliteit van de opsporing te verhogen. In het kader van het onderzoek is het wettelijk en beleidskader gereconstrueerd en zijn casestudies uitgevoerd bij elf werkgevers. De bevindingen zijn afgezet tegen de literatuur en getoetst in vraaggesprekken met experts, beroeps- en belangenorganisaties.

