

**NATO Democratic Institutions Research Fellowship Final Report**

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**Criminal Justice System and Process of Democratization  
in Estonia**

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## TABLE OF CONTENTS

ACKNOWLEDGEMENTS.....	2
SUMMARY.....	3
1. INTRODUCTION.....	4
2. THE CONCEPT OF THE RESEARCH PROJECT.....	8
2.1. Transition in Estonia.....	8
2.2. Crime and crime control as cultural phenomena.....	10
2.3. Changes in crime control .....	14
3. CRIME IN ESTONIA .....	19
3.1. Background, basic juridical and demographic issues.....	20
3.2. Crime trends in Estonia 1991-1998.....	21
4. POLICE IN ESTONIA 1991-1998.....	27
5. CORRECTIONS IN ESTONIA 1991-1998.....	33
7. CONCLUSIONS AND FURTHER CONSIDERATIONS.....	39
8. REFERENCES.....	42
APPENDIX.....	47

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## Summary

This report examines crime, the criminal justice system, and related democratization process issues during the period of 1991-1998 in Estonia. The main aim of this project is to analyze criminality and the developments in the field of crime control after the re-establishment of independence, as essential indicators of the social situation in this country. Such an analysis documents this development so far and facilitates the elaboration of a more definite conceptual basis for creating a criminal justice system suitable for Estonia.

In the first part, of the report a theoretical conception of the research is given. Transition is defined as systemic changes on all levels of society as a whole, which result in the emergence of a new type of society. The functionalist approach in social sciences argues that there are significant correlations between crime and rapid change in social structure, norms and values dominating society. At the same time crime and crime control in Estonia can be treated as cultural phenomena as this region lies on the border of two civilizations, Western Christianity and Orthodox Christianity. Therefore, Estonia's endeavors to integrate into Europe can be viewed as re-integration into the Western Christian civilization.

In the second part, the quantitative and qualitative developments of crime in Estonia are analyzed. From 1988 to 1992 crime increased about 400% and about 11% from 1992 to 1998. The crime rate has risen mostly due to the incidence of property crime. Violent crime reached its peak in 1994 and after that has decreased steadily. "New" crime categories have appeared in Estonian crime, such as drug related crimes, organized crime and the "white-collar" crime. The Estonian criminal justice system faces a real challenge – to cope with the crime that has undergone major changes. Despite this, the system should develop into one which helps to support the type of culture and society acceptable to European democratic society.

In the third and the fourth part, the Estonian police and correctional system, as the fundamental parts of the criminal justice system, are observed and their development and efficiency assessed. An essential foundation for the Estonian police was created at the end of the Soviet era in conjunction with the reorganization of the Soviet police or "militia". By now, the police has undergone major positive external changes, but still it has preserved many substantial features from the previous period. The reasons may include excessive politicization of the police, inadequate reforms and lack of younger people, who have received their higher education during independence, among the senior staff. The Estonian correctional system was not able to start developing until the previously existing prison camp system had dissolved, but fundamental changes have taken place by now. The system is administered by specialists of the younger generation, legislation is constantly being updated to conform to international rules and European standards are being implemented. Some indicators, such as the rate of prisoners, 302.5 individuals per 100,000 population, remain abnormally high. According to public opinion, the Estonian police's ratings are lower than the correctional system's.

In conclusion, it can be stated that the Estonian criminal justice system is still characterized by several features typical of the Soviet era and that period's operating principles. Consequently, there is much to be done for the creation of a new, efficient, rational and human crime control system in this country.

## **Introduction**

During the last ten years fundamental changes have taken place in Estonia, as in other East European states. This process began with the collapse of the Socialist world system and continued with the re-establishing of the independence of several states. Now a development is taking place which should result in the formation of a democratic society in these states. These free post-Communist states, being in such a period of transition, seem to be moving, teleologically speaking, from one point of development (a communist, totalitarian-authoritarian society, occupied country) to the next (stable democracy, post-industrial society, market economy, independence).

The actual changes of post-Cold War Europe have also been interpreted as a "return" to an earlier stage of development. This, for instance, includes the interpreting of post-Communism as a return to historical "truth", to national roots, to a normal society and finally to Europe. Specifically in the case of Estonia and the other Baltic states, the positive aspects of returning to Europe have been brought forth repeatedly by the politicians of these states and by foreign analysts (Lagerspetz, 1999: 36-52).

Observing the Estonian transition, we assume that this process cannot be properly understood as the simple sum of positive changes initiated and evaluated from the West, which is summed up by simple, relatively trivial terms like "returning" or "re-westernization". Instead, we are dealing with a complicated process with multiple meanings.

*Firstly*, the "simply return model" assumes that Europe's development process had stalled, to wait for the departed countries to at one point start returning. Actually, in Europe itself, new processes have taken and are taking place, the results of which are not easily prognosticated. For instance, one of the on-going processes, taking place synchronously with the forming of the Estonian state, is the reduction of the hitherto big role of the post-modern state.

*Secondly*, it is impossible to make the half century long Soviet period of the post-Communist states disappear, even if that were desirable. Fifty years of occupation have left a significant impression upon people and institutions. It can be seen in the serious problems, especially difficulties associated with adapting to new situations, arising in many important spheres of life. Despite inner conflicts with the political system, the majority of people adjusted to the circumstances of Soviet reality, developed a kind of Orwellian "double-think" and invented different forms of adaptive behavior. Sociologist Piotr Sztompka has described varieties of this type of adaptive behavior as "Socialist mentality", which is now the major obstacle to democratization and marketization (Sztompka, 1993: 243-249).

*Thirdly*, it is never possible to plan and to implement exactly the development of society and society has to be prepared for unexpected developments and undesirable by-products of development. This means that even positive and natural transitional processes can bring with it new and unexpected problems. In 1991, Claus Offe, the known theoretician of transitional societies, warned that the economic and political modernization in post-Communist countries would have to be completed in a short period of time. And this has to be done without any model cases to follow, and also without the mature structures of civil society which are usually needed to support changes and mediate conflicts. The process could open a “Pandora`s box” full of paradoxes (Offe, 1991: 874).

One such sore point is the significant rise in crime and the decline of public safety. Today, a high level of criminality and therefore a need for control of criminogenic factors are acute problems in Estonia, like in all post-Communist states. On the *one* hand, crime growth expresses a natural dysfunction of social institutions in the period of rapid change. The social environment has changed considerably. Both, the strict formal control system exercised by the state, and the informal supervision, based on the socialist idea of equality and carried out by the people, have lost their influence. On the *other* hand, the accusations that new social institutions are not able to control criminality would be influential arguments for totalitarian and authoritarian forces trying to turn these states away from democratic development. Consequently, criminality and crime control problems are, together with economic and political ones highly *important topics* in the context of further developments in post-Communist societies.

The main **aim** of this project is to analyse criminality and the developments in the field of crime control in Estonia, after the re-establishment of independence as essential indicators of the social situation in this country. Such an analysis should help create a conceptual basis for the development of a criminal justice system suitable for Estonia.

Under analysis are the total number of crimes committed during the last 7-8 years, and some different categories of crime — intentional homicide, aggravated assault, robbery, theft etc. This was done because of the considerable differences in definitions of offences from one jurisdiction to the another, as well as differences in the statistical classification of offences. The assumption was that, although these offences are also defined differently in different countries, they nonetheless share common characteristics across jurisdictions. Most of the aforementioned crime categories have also been used for the comparison of crime in different countries in the Fifth United Nations Survey of Crime Trends and the Operation of Criminal Justice Systems in the years 1990-1994 (Kangaspunta, Joutsen..., 1999: vii-xv). Both official registered crime statistics and the results of some sociological studies for evaluating the spread of latent crime in Estonia, were taken into account.

When trying to evaluate some country`s actual level of crime and the trends of crime development, one usually has to make comparisons with previous years. When analyzing Estonian crime and especially when making comparisons with the pre-independence period, it has to be kept in mind that Soviet society was over-controlled, that all human activity was suppressed. Therefore, it is natural, that the authorities were also able to keep a check on the level of criminal activity. The second problem arises in connection with Soviet era crime

statistics, which, as is well known, were secret and were adjusted to suit the aims of the authorities. Also, the work of the whole law enforcement and criminal justice system was ideologized and to a great extent hidden. As a result, we today do not know much about the functioning of this system during the earlier years of Soviet Estonia.

Any criminal justice system is an apparatus which society uses to enforce standards of conduct necessary to protect the individual and the community. This study is focused on a specific social organization — the Estonian criminal justice system. Before the political break, the Estonian criminal justice system had very little independence, being just a small part of the centralized system of the big Soviet empire. All decisions of any importance in the fight against crime were made outside Estonia. The whole system was directed, and the staff trained, centrally, so that local authorities played a very small role. Now all problems connected with crime control have to be solved locally. This means, that during a fairly short time, it has been necessary to create a new criminal justice system. This system has to suit a small democratic European state, being at the same time effective, rational and humane. Although it was not possible to carry out a massive replacement of personnel with new, suitably educated and professionally trained people, since they just were not available.

The analysis of the Estonian criminal justice system as a whole is based upon a general model which was originally created in the late 1960s, by the American President's Commission on Law Enforcement and Administration of Justice ( *The Challenge...*, 1968: 70-80). For this project, the model has been adapted to Estonia's conditions. The analysis is based on the flow of cases through the circuit which consists of the following parts: the crime itself, the arrest of the suspect, the preliminary investigation of the crime, the sentencing of the culprit, and the punishing of the offender. All segments of this system were analysed on the following basis: laws regulating their activities, their structure and organization, their management, their staff and staff training, their effectiveness, their financing, their image and the reflection of this in the printed press.

The Estonian criminal justice system, which moves into action after receiving information about the commitment of a crime, consists of three separately organized branches: the police and the preliminary investigation ( administered by the Ministry of the Interior); the court and the prosecution ( administered by the State Court and Ministry of Justice); the correctional system and the prisons ( administered by the Ministry of Justice). Activities of all these branches are geared to achieve quite different and specific aims. The decisions made, and the activities which take place within these different branches, are also quite different. However, these parts are by no means independent of each other and what each one does and how it does it has a direct effect on the work of the others. The most important branches of the criminal justice system are the police and the correctional system. Therefore, this project concentrates on them.

Within the carrying out of this project the following initial **hypotheses** will be developed and controlled:

I. By dealing with the changes in Estonia as a transition process, the dynamics of crime during the last decade in this region, can be interpreted as one of the consequences of the

named process. Crime can therefore be viewed as an indicator which shows arising tensions and blockages in the transition process.

II. Different societies have different dominant value-attitudes towards property, the relationship between the individual and the state, and freedom and equality. These affect property crime, violent crime, “white collar” crime and organized crime during the transition from one stage of development to another. It first brings about an increase in crime, but the level of crime should decrease when the situation stabilizes.

III. In different societies different crime control strategies and methods are used, which are in accordance with these societies` basic values. They reflect and reproduce a certain type of society. It is not effective to use crime control strategies and methods suitable for one type of society in another society, since it will lead to dissonance in the natural development of the society.

IV. The creation of a new criminal justice system in Estonia is vitally important. As part of a realistic democratization process, the criminal justice system also has to more and more resemble corresponding Western European systems. If this development does not take place, the criminal justice system starts to chronically hamper the development of society as a whole.

The basic **method** was logical analysis, evaluation and interpretation of data characterizing crime trends, and operation and development of the criminal justice system. The goal was to compare the Estonian criminal justice system with the general development trends of the criminal justice systems in other European states. Results were evaluated in the context of the Estonian democratization process.

Data used by the author, along with his own research materials, was prepared by the Ministry of The Interior, the Ministry of Justice, the Department of Statistics, and the Estonian Institute of Economic Research.

A substantial part of the theoretical materials used were obtained by the author in March-May 1997 and June 1999 in Freiburg at the Max Planck Institute for Foreign and International Criminal Law.

Papers based on materials used in this project have been presented at the following international conferences:

The Russian-German Symposium “Crime prevention and community”, St Petersburg, 14.-19.10. 1997;

International Colloquium “Criminal Law in Reaction to State Crime: Comparative Insights into Transitional Processes”, Freiburg im Br., 03.- 05.06, 1999.

## The Concept of The Research Project

### 1. Transition in Estonia

The concept of this research project is primarily based on the theory of transition. Transition is defined as systemic changes on all levels of society as a whole, which will result in the emergence of a new type of society. The word transition is obviously a general term used to encompass several simultaneously occurring processes, the result of which should be the creation of a new stable status quo. In Estonia's case, a formal result of this development could be the full membership in the European Union.

The transitional processes have been characterized by various authors differently. Zbigniew Brzezinski has analyzed the major political, economic and legal changes in East and Central-European countries during the post-Communist transformation. He describes three stages of the process: "the breakthrough", "change takes hold" and "emergence of a stable democratic system". According to Brzezinski's opinion the aim of the first stage is political transformation - introduction of the basis of democracy, a free press, an end of the one-party system, development of an early coalition oriented to promoting change. In the field of legal regulation, the goal is elimination of arbitrary state control over all areas of life. During stage 2, transformation changes to stabilization, which means the emerging of a new constitution and electoral law, free and general elections, a decentralized local government, a stable democratic coalition and a new political elite. In the legislative field, the major steps are the legal regulation of ownership and business. During stage 3, the main political goal is consolidation - emergence of stable political parties and a democratic political culture. This should be accompanied by the emergence of an independent juridical and legal culture. The whole process can take anywhere from 10 to 30 years (Brzezinski, 1994: 130).

On the basis of this approach, the Estonian transition has divided into three periods: stage 1- from 1987 to 1991, stage 2- from 1991 to 1994 and stage 3 - a still ongoing process which began in autumn 1994 (Lauristin & Vihalemm, 1998: 81).

According to Carl Offe's interpretation, there are also three stages in this development process, but they occur simultaneously and at different levels and paces. Firstly, at the most fundamental level there is a shift in the sense of national identity, which means a redefining of the concepts of state, citizenship, geopolitical relevance, as well as a shift in the social and cultural boundaries of the national state. The result is a new sense of self awareness, the formation of a new subjectiveness, the creation of a new sense of "we". The second stage is the creation of a new constitutional structure. The third stage could be the development of a

new structure for the acquisition and distribution of material resources, reform of real estate ownership laws, the stabilization of the economic development process and the application of the principles of social justice (Offe, 1996: 32-35).

Looking at crime control and the law enforcement in this context, it becomes apparent that the creation of a stable and safe social environment is essential for a successful social transition. According to both Brzezinski's and Offe's transition concepts it is important that after the first stage, or the revolutionary period, new stabilizing social structures be created and developed. Among these structures is the criminal justice system, on the functioning of which depends the stability of the whole society.

At the same time, the level and the dynamics of crime are essential indicators which show how successful the transition process itself is. The functionalist approach in social sciences argues that there are significant correlations between crime and rapid change in social structure, norms and values. Emile Durkheim at the end of the 19<sup>th</sup> century used the term *anomie* to describe the state of deregulation during periods of fundamental social changes, or normlessness, when people experience a sudden loss of the normative guidelines that regulate social aspirations (Durkheim, 1951). This term has later been revised and applied to the understanding of crime and has now become one of the most commonly used terms in criminology. It is obvious that after the collapse of the Communist system, the Baltic societies fell into a state of anomie and disorganisation, in which previous values, norms and rules disappear and new ones develop. The named subject, as a factor influencing the growth of crime in post-Communist states, has already been treated in some criminological studies (Lotspeich, 1995; Shelley, 1997).

Another important theoretical base which can be used to analyze the Estonian transition process is the civilizational approach to the post-Communist changes in Central and Eastern European countries. This has been inspired by Huntington's theory of a clash between civilizations shaping the new global developments at the end of the 20<sup>th</sup> century (Huntington, 1993, 1997). The thesis of civilizations as the most important entities in the post-Cold War world has already ignited controversy and criticism (Kirkpatrick, 1993; Nussbaum, 1997; Smith, 1997). Despite the criticism, which has not always been adequately backed up, the post-Communist changes in Eastern Europe have been defined through the civilizational paradigm as the "new social order, emergence of the new post-Communist culture and civilization" (Sztompka, 1996) or as the "re-integration with Western civilization, return to the Western world" (Lauristin, Vihalemm, 1997). Partly on the basis of the civilizational approach, further developments of terrorism in Europe have been prognosticated (Taylor, 1995).

According to Huntington's concept, the substantive bases of conflicts in the near future lies in cultural differences, not in the earlier ideological and economic ambitions at the governmental level. Global politics will be determined by the "clash of nations and groups belonging to different civilizations" (Huntington, 1993: 22). The idea of conflicts between civilizations as the new driving force of historical development is suitable for analysis of the multidimensional post-Cold War world. It is important to mention that we are discussing civilizational conflicts, as the immanent drive of every social group to develop and expand

as much as possible (similar to the struggle of species for survival in the evolutionary theory), not as a rhetorical exhortation disparaging other civilizations and encouraging discrimination against people with a different cultural background.

The Baltic region, and Estonia, lies on the border between two civilizations, Western Christianity and Orthodox Christianity. Estonia's presently ongoing development process can be viewed as a transition from an Orthodox-Christian civilization (which during the 20<sup>th</sup> century had acquired a Communist ideological coloring) sphere of influence to a Western Christian civilization sphere of influence. Therefore, Estonia's endeavours to integrate into Europe can be viewed as a re-integration with the Western Christian civilization, from which Soviet occupation had separated it for half a century. Since the basic values and norms of the two named civilizations are essentially different, it means that all people living in Estonia are to some extent undergoing an internal conflict. They have to adjust not only to new conditions but also to new values and norms.

## **2. Crime and crime control as cultural phenomena**

The approach according to which crime exists and spreads, through transmission of value conflicts, in time and space, has a long tradition in the social sciences (Sellin, 1938; Sutherland, 1939). The theories pertaining to culture conflict in the context of crime have, for various reasons, not gained wide popularity. The concept of cultural conflict has been used primarily to account for individual behavior as a psychological conflict (Wolfgang, 1968). Despite the fact that in the 1990s more attention has been paid to the correlation between people with different cultural backgrounds and criminal activity, research has, as formerly, dealt with the problems of ethnic and other minority groups integrating into a large community (Albrecht, 1997).

The concept of cultural conflict covers a field much wider than the conflicts likely to arise through migration from one country to another. For example, there is also reason to examine culture conflict and its possible effects on crime, when the parameters of a particular cultural space change, and the whole population of a particular area is placed into a new cultural environment, as has happened in Estonia during this decade.

The idea was to analyse crime in Estonia as a special outcome of cultural conflict, of conflict between two different value systems and norms of conduct, which exists as a result of essential cultural difference between Western Christian and Orthodox Christian civilizations. It is important to keep in mind the different interpretation of legal standards in the Western and Slavonic cultural space. Usually, for a person coming from a Western country, the validity of legal standards is more or less absolute, whereas for those coming from the Slavonic culture, it is more relative.

An established, clearly fixed legal standard is one of the major values of Western Christian civilization. Violating it is also a serious breach of unwritten laws, which are not so concrete, but deal with such essential spheres such as honesty, the validity of verbal agreements, privacy, etc. However, the validity of a norm as something monolithic and collective does not fit very well into the framework of the general Slavonic-Orthodox

perception. Naturally, such a situation has not emerged from the immanent traits of the people in this type of culture. Instead, it reflects the impact of social factors especially via social customs, and the teaching and copying of essential social rules.

The relative character of a legal norm according to which neither the state nor the people take the formally valid norms seriously in the Slavonic-Orthodox culture, relates to several matters. First, there were far too many legal and not ethical standards in this culture during the last 80 years. In other words, many realms of human behavior are only legally regulated. For example, during the Soviet period, thefts from work sites were wide-spread. However, neither employees nor supervisors considered such acts serious violations, even though officially there were strict regulations for fighting against any illegal activities harming state property. It can be considered as a conflict between a strict norm and frequent violation thereof. Looking deeper, it is an example of profound Eastern wisdom, according to which, collective, mass violation of any norm decreases the internal conflict of the violator and produces a feeling of unity. Even more important, the mass violation of a norm offers an opportunity for authorities to punish people for it, whenever necessary.

Another important aspect, which results in such a difference between the Western Christian and Orthodox Christian legal cultures, lies in the utmost instability of the latter in the 20<sup>th</sup>-century, as the revolutions and other radical changes of policy demonstrate (Litwack, 1991: 78). Thirdly, the repressive penal policy implemented in the former Soviet Union (especially during the Stalin regime) condemned millions of people to be criminals, blurring the borderline between criminals and non-criminals thereby reducing the moral authority of existing legal norms.

As is well known, legal standards are but one of many formal, external factors guiding human behavior. An external norm should be internalized by people, so that it will operate as a regulator of human behavior, even without any visible force. By comparing the Western Christian and Orthodox Christian civilizations, in this sense, it can obviously be said that informal regulation in the field of legal behavior has a much greater role in the former. It has occasionally been said that a democratic society, based on the free market economy, presumes a relatively high sense of morality in connection with property, honesty, agreements, trading, profit and competition on the part of the people. That is, along with obeying the existing legal standards, certain ethical and moral standards, as well as other principles, are observed (Hirsch, 1976). This tendency allows, in the democratic countries, a lower level of direct governmental involvement in the lives of its citizens. At the same time, it provides a measure of control over criminal activity.

In the Slavonic-Orthodox tradition, violation of a rule, and the official punishment for it, are separated from each other, and politics plays a determining role. Legal and political powers are not independent from each other, thus making people unequal under the law. In this tradition, formal legal standards are not intended for the regulation of the whole society. Instead, they are first and foremost meant to keep the masses under control. There have always been other, mostly unwritten, standards for the elite, based on either personal or political loyalty. Therefore, essential differences can be pointed out, which become

significant, whenever we compare the role of legal standards in the Western-Christian and Orthodox-Christian cultural areas and the people's attitudes towards them.

The main cultural feature of modern Western civilization, stressed by many studies, is found in the importance of an individualistic orientation. It is opposed to the collectivist orientation more characteristic of traditional societies and is often considered a distinctive element of Eastern versus Western value orientations (Schwartz, 1990; Triandis, 1990; Hofstede, 1991). Western societies are more individualistic, placing a high value on the individual, his life and property. Therefore, it is obvious that there are essential differences in characteristic patterns of individualistic and collective attitudes of people.(see Table 1).

Table 1. Characteristic patterns of individualistic and collective attitudes

Individualism (West)	Collectivism (East)
1. Individual identity. Use of `I`, `Me`. Loose in-group relationships, emotional detachment from `out-groups`.	1. Group identity. Use of `We`, `Us`. Tight in-group relationships, emotional attachment to `out-groups`.
2. Self and immediate (nuclear) family. Looking after `Self`.	2. Extended family and in-group networks. Protection in exchange for loyalty.
3. Belief in competition. Challenge. Express `Self`. Assert own uniqueness.	3. Belief in cooperation. Harmony. Deference. Avoid confrontation.
4. Personal responsibility. Independence. Maximize one's own outcomes.	4. Shared responsibility. Interdependence. Shared resources.
5. Doing one's `own things`. Hedonism. Personal time to do as you want. Value of honesty, speaking one's mind, personal opinion.	5. Public self and `face`. Obligations to others. Little time for self. Value agreement, awareness of social context. Opinion predetermined by group-membership.
6. Individual freedom. Right to privacy.	6. Equality and group consensus. Private life suppressed.
7. Confrontation with authority. Resentment of conformity.	7. Acceptance of authority. Conformity.
8. Value originality, initiative, youth.	8. Value tradition, structure, hierarchy, conventions.
9. Control by `guilt`. Conscience.	9. Control by `shame` and `loss of face` (fear of rejection).

Source: Tower & Cooper, 1995

As a result, there are very differing relationships between the individual and the state authority, just as there are differing attitudes toward individual and state property. The respect for private property, which helps to strengthen the individual's independence, has for instance, been regarded as one of the cornerstones of Western cultural space. This principle has essentially helped to promote the fast development and progress of Western civilization ("property as sacred and inviolable")(Hayek, 1997: 43-54). Different attitudes towards

property during a transitional period, when the dominating values are being replaced by another, is a contributing factor to the increase in property crime.

A relatively low evaluation of human life and the use of an individual as a mere instrument for gaining other, more important goals, are immoral and uncommon in the Western cultural tradition. The Eastern tradition, however, has always been less reluctant to accept such a possibility ( slogan “no man, no problem”). Obviously, such a difference can be explained by the different treatment of the “masses” and “outstanding individuals”, as explained above. Apart from their rights being different, the value of the life of a representative of the “masses” and that of the “elite” is significantly different. As the “masses” always outnumber the “elite”, the “price” of a human life is decreased in the whole community. In the context of our discussion, it can thus be stated that the high level of violent crime and especially homicides is clear-cut evidence of the non-Western attitudes towards the life and personality of a human being.

One of the most important differences between the current Estonian society and the previous Soviet one lies in the structure of the hierarchies of power. As a part of an empire the power structures existed outside Estonian society, and, as a rule, were concentrated in the centre of the empire. Nowadays, these power structures are within Estonia itself, and there is no external control similar to that which existed during the Soviet period. Therefore ethical regulations and public opinion become more and more important. The acute cases of “white collar” crime of recent years eliminate any doubt about the moral weakness of the Estonian new elite. This problem will exist as long as special unwritten laws are applied whenever the elite is involved, and as long as the mechanisms for supervising the elites` behavior do not work properly.

Speaking of the specific type of organized crime known as the “Mafia”, we shall only consider the clear cultural aspects of the phenomenon. While ordinary criminals do their best to hide themselves from the public, with the hope of escaping prosecution, those involved in “Mafia” activities like to demonstrate their belonging to the “family”, without facing any public condemnation, whatsoever from the population. Such coexistence side by side with criminals, honouring them even in noncriminal circles, again reflects the non-Western attitude towards delinquents. In the Western cultural area a lawbreaker is just a criminal, whatever nationality, class or group he belongs to.

Crime control, the practical aim of which is to maintain law and order within the state, can also be dealt with as a cultural entity associated with the protection of the dominant values of a society. In this sense, public evaluation and even punishment of crime are phenomena whose meaning can be adequately appreciated only in the appropriate cultural context. The goals and methods of punishing criminals can differ, depending upon the concrete cultural space. Therefore, punishment can be seen to reflect people`s dominating understandings and values (Christie, 1993: 183). For example, it is possible to draw extensive conclusions about the two societies by the fact that, in one of them, an unfaithful wife is executed by being stored to death at the market place, whereas in the other, the husband is called “a cuckold”.

A society's legal standards, by the severity of punishment, differentially expose which values are considered as more, or less important. For example, according to Soviet legislation, punishment was more severe in the case of material loss caused to the state than in the case of material loss caused to an individual. In other words, state or collective property was more valuable than private property. The crime control system functions quite differently in an over-controlled, totalitarian society, than in a relatively free democratic society, where the relations between the individual and the state are diametrically different. It can be said that through its activities, a crime control system always protects and maintains a particular cultural environment, and that the named system can either be in harmony with, or be in conflict with, the general development of the society.

### **3. Changes in crime control**

The crime control policy in the Western World (Western Europe and North America or the Western Christian civilization sphere of influence) has undergone changes in the last few decades which have been figuratively compared to the swing of a pendulum, or the movement of a sailboat in the wind. In the 1960s and early 1970s, the liberal-realist approach to crime was dominant. Criminal behavior was foremost dealt with as a social problem, and the criminal was seen as an individual who has adapted poorly to society's norms. During this period, was spoken about a great deal of the need to consider the personal individual differences among criminals in the course of their treatment so that their integration into society, or their rehabilitation, would be successful. There was total belief in the great opportunities provided by socio-economical reforms and in social therapy as the solution for crime problems (Menninger, 1966; *The Challenge of Crime...*, 1968; and others).

This period was characterized by a critical attitude towards a repressive penal policy and incarceration. Of course, this point of view did not mean that there was a call to simply eliminate the classical prison institution. But the conclusion was reached that prisons and other institutions for the isolation of individuals do not to rehabilitate the criminal. In other words, a prison does not help criminals to readapt to their future life in freedom. On the contrary, correctional institutions of that time had become, in their own way, "universities for criminals", and for that reason, the freed criminal was often incapable of leading a law-abiding life. Out of this grew the demand to cardinaly reform the entire criminal justice system. The problem was approached from the need to socially rehabilitate the criminal, and this was actively put into practice.

In the 1970s, it became apparent that there were significant shortcomings in the liberal approach, with constant criticism being directed against this crime control policy. The criticism from the "conservative" or "punishment-oriented" position was based arguments that the new crime control policy was:

- a) insufficiently directed toward the general prevention of crime;
- b) not in conformity with the seriousness of the crimes which were committed;
- c) not providing sufficient security to the public (social security);
- d) too expensive.

The critics from the “progressive” or “critical” side were of the view that:

- a) crime should be handled as a deviation from social norms, not as individual pathology;
- b) the treatment ideology based on a medical model stigmatized the individual;
- c) control over the person was increased as a result of the power of the social services being used (“the widening net”);
- d) there was insufficient judicial control over informal decisions and the involuntary influencing of individuals;
- e) the idea of social therapy was itself fundamentally opposed to the idea of punishment, and therefore it was not possible to achieve positive results by placing criminals in correctional institutions (Lösel, 1993).

In addition to these arguments, studies of the effectiveness of the new crime control policy (treatment model) rated it as indifferent or negative. The discussion ended with the victory of the pessimistic approach regarding this model (“nothing works”) and this so-called psychosocial approach. As a result, liberal penal reform lost its leading position (Lipton, Martinson & Wilks, 1975; Schüler-Springorum, 1986).

By the mid-1970s, the leading position in the discussion regarding crime control policy was taken over by the classical approach towards crime. Some authors have tied this together with a general societal change in attitude and the so-called conservative revolution in Western criminology (Currie, 1991). From the perspective of the neoclassical position, criminal activity and its control was foremost seen as a problem for the criminal justice system, not as the whole society’s problem. With the assistance of isolation, neutralization and frightening of criminals en masse, crime can be effectively controlled, since increasing crime is the result of insufficient punishment (Wilson, 1975). In substance, this represented a return to the social Darwinism of the 19<sup>th</sup> century, and the criminal was treated as an individual who could rationally make choices between “good” and “evil”.

This approach cast aside the idea of rehabilitation of criminals, considering it old fashioned, and in reality, not achievable. The proponents of this new direction were also of the view that one should not look for the reasons for criminal activity only in society, and that it is possible to significantly influence the level and dynamics of crime through the assistance of social programs. One of the favorite arguments of the conservatives, for example, was the “paradox” or “aetiological crisis” of the rise of crime in the 1960s (Young, 1988). According to the liberal interpretation, crime should have been reduced during this period, since in Europe and in North America the general socio-economic situation had improved, in that the income of the population increased, unemployment decreased, and greater resources were provided for social programs. Crime however, continued to increase, and the “conservatives” concluded from this that the position of the “liberal-realists” was not valid. The blame for the rise of crime was placed on the ineffective work of criminal justice authorities. Apparently they had not dealt with crime in accordance with the expectations of society. All hope was placed on such crime control policy ideas as “general deterrence”, “selective incapacitation”, “just desert punishment”, “situational prevention”, etc.

Conservative understanding of crime control policy dominated until the beginning of the 1990s, when again was there increasing criticism of the excessive expenditures of the

criminal justice system (especially police and corrections), of the great number of prisons and prisoners, of the high recidivism rate, etc. Once again attention was turned to informal justice, community policing, community corrections and others non-custodial alternatives. At the same time, began the renaissance of psychosocial interventions in correctional institutions, which do not fit into the framework of “pure punishment” and are aimed at the constructive altering of the criminal’s behavior patterns, the goal being to reduce recidivism (Gendreau & Andrews, 1990; Lipsey, 1992; Hood, 1993).

This recent turn in the discussion of crime control policy was caused by many circumstances, the most important of which are set out below. First, the “neoconservative” ideas which were put into practice were not as effective as had been hoped for. Second, new research methods (especially longitudinal studies) which made it possible to convincingly prove the essential factors in the forming of criminal behavior to determine the role of psychological and social factors. Third, more effort was spent on the development and improvement of programs for treatment and rehabilitation of criminals. Such programs became more adequately addressed toward different categories of criminals. Fourth, by the beginning of the 1990s, the methodology for measurement of the effectiveness of these programs and methods had become more advanced. It is obvious that during the criminal policy reforms of the 1970s and 1980s, the idea of changing the criminal, to become more law-abiding, had been left too far in the background.

With this, the pendulum of crime control policy had gone through a full cycle and began moving from neoclassicalism, in the direction of neopositivism or neoliberalism. Despite the actual dominance of one approach or another, it is possible to establish some firm trends in the general development of crime control policy.

Table 2. Trends in Western crime control policy

Crime Control Policy			
Decriminalization (informal justice, mediation etc.)	Criminal sanctions		
	Non-custodial alternatives (fines, probation, community policing, community corrections, etc.)	Incarceration	
		Treatment of criminals	Classical prison sentences
®	®	®	

The arrows in the table above demonstrate the direction in which crime control policy developed in the 1990-s, and generally speaking, throughout the 20<sup>th</sup> century. First of all, it is obvious that diversified crime control measures and modes of punishment are gaining popularity at the expense of classical incarceration. It is also quite characteristic, that attempts are made to find new alternatives, to avoid the use of criminal sanctions, and to solve as many problems as possible without the aid of the governmental criminal justice

system. At the same time, the role of the criminal justice system itself is constantly changing and expanding. Dealing with the after-effects of crime (victims' problems for example) is becoming more and more an integrated part of criminal justice systems. Law enforcement agencies provide victim support services, and women's shelters are available, to offer protection for the victims of domestic abuse.

Crime control is no longer monopolized by the government, nor is it limited to law enforcement. The various means for the maintenance of security involve the business sector, government agencies other than the police, private pressure groups and individual citizens. An increasing amount of (private and public) resources is devoted to crime control and prevention (crime prevention councils, community crime prevention groups) and target hardening (locks, burglar alarms). Policing is now widely offered by institutions other than the state, mostly by private companies on a commercial basis.

These concrete changes are of course brought about by the following major shifts in crucial Western value judgements and attitudes:

**Firstly**, it should be stressed that there is an evergrowing belief that the state's repressive agencies should interfere in people's lives as little as possible ("as often as is necessary, as little as possible"). The role of the state should constantly decline, with the state changing from a controller and order-giver to an adviser and helper (the so-called "abolitionist attitude").

**Secondly**, there are constant attempts to replace the formal criminal justice system, which places external controls on people's behavior, wherever possible, with informal control-systems (neighborhood watch, community policing, community corrections). Since society's hitherto traditional hierarchical structure is being replaced by formal and informal networks, it is hoped that decision making is being brought as close as possible to the individual.

**Thirdly**, it is believed that the criminal justice system cannot deal with the causes of crime, since criminality reflects society's inner conflicts. The best crime control and crime prevention policy is a good social policy, which deals with matters like the reduction of social inequalities, total employment and the promotion and support of the family structure.

The ideology and practice of crime control policy has developed completely differently in the former Soviet Union. Until the mid-1980s, the classical approach to crime was the only real concept of crime control policy. But this had been preceded by the period of Stalinist mass repressions, when crime control was absolutely inseparable from the ongoing political actions. The liberal, socially oriented understanding of crime control did not begin to gain importance until the second half of the 1980s. This was during the same period when neoclassicalism prevailed in Western Europe and North America. Most important however, was the fact that the liberal approach was never applied in the former Soviet Union since there was no juridical basis for it, and no motivation for the state to create a new type of criminal justice system. The Soviet crime control system existed independently of theoretical criminological discussions, was anti-human in nature, and remained within the framework of the asiatic-Stalinistic paradigm.

In the former Soviet Union, the main emphasis was placed on control and severe punishment of criminals, as well as on extensive repressions. In this manner, the authorities

also attempted to solve political issues, to keep any opposition from forming and to find solutions to economic difficulties. Soviet prisons were completely closed institutions where what occurred was kept secret, and were established in accordance with the military model. Criminals were treated as dangerous enemies of the state who did not possess even the most elementary rights which could be demanded from the state.

**Summing up:** As can be seen, re-independent Estonia is in a period of transition. If this is to be defined in a civilizational context, Estonia is undergoing a transition from East (Orthodox Christian civilization sphere of influence) to West (Western Christian civilizations sphere of influence). The dominating values and basic beliefs in both civilization are quite different, which creates value conflicts in all Estonian residents. One result of this mass anomaly and social upheaval is, without a doubt, the growth of crime in Estonia during the last decade. This has to be viewed, on the whole, as “the price one pays for freedom”.

The crime control methods, and the principles under which the criminal justice system worked, in the former Soviet Union, and the West, were essentially quite different from each other. After the re-independence of Estonia, the existing structure for maintaining law and order crumbled and anomie grew. After this, it was possible to start creating a new criminal justice system. At the same time, it should not be overlooked, that a crime control system is always used for also maintaining a definite cultural and societal structure. Therefore, in analyzing the development of the Estonian criminal justice system, it has to be kept in mind that this development is taking place on the basis of principles adapted from the Western cultural sphere of influence. The principles of the former system had to be discarded.

In Estonia, which was forced, for nearly half a century, to be part of all Soviet social developments, one can talk about two basically different crime control strategies.

The first (“soft”) is Western oriented, based especially on the liberal approach, which assumes that crime should be controlled through economic and social measures. This approach assigns the criminal justice agencies only a moderate or even secondary role. In Europe, the crime control system is constantly moving towards a softening of sanctions, which can be explained by society’s increasing maturity and people’s improved self-control mechanisms. A general attitude development like this is not changed by occasional shifts back to conservatism. If this development is viewed from a modernist and post-modernist angle, it can be said that there has been a growing demand for a reduction of state control, and an increase of personal autonomy.

The second (“hard”), which is often described in militaristic rhetorical terms (ie, “the war against crime and criminals”), and in which the criminal justice system plays a leading role in reducing crime through actively repressive measures, was characteristic of the former USSR. In the first model, the different elements of the criminal justice system (police, prisons) are civilian institutions. For the Soviet-style model it is symptomatic that the personnel of the police force and penal institutions receive military-type training, and that the aim of the criminal justice is to totally control society.

Since the Estonian criminal justice system is in a transformation period, these two aforementioned, basically different approaches to crime control are competing with each other for the dominant role. In the Estonian democratization process, the aim role of the criminal justice system, as it is in all European democratic states, is to keep criminality under control. But a low crime rate has to be achieved and maintained with “soft” methods. In

other words, through non-repressive activities of the criminal justice agencies. If the total societal control methods familiar from earlier times were to be re-introduced in Estonia, then the continuing development of Estonian democracy would be questionable.

## Crime in Estonia

### 1. Background, basic juridical and demographic issues

The Republic of Estonia is the northernmost of the three Baltic states, bordering in the east with Russia, in the south with Latvia and in the north and west with the Baltic Sea. It has an area of almost 45,000 square kilometers and its location gives Estonia a special strategic importance, being for Russia a sort of “window to Europe” and for European states the “last foothold” in the east. Estonian territory was taken over by Russia for the first time in 1721, when Russia defeated Sweden in the Great Northern War.

Everything that characterizes present Estonian crime and the criminal justice system is inseparably connected with previous developments of Estonia as a state. Estonian statehood, from 1918 to today, can be divided into three politically and legally different periods:

- in the period 1918-1940, Estonia was an independent, sovereign, democratic republic;
- in the period 1940-1991, Estonia was, after being occupied by the USSR, one of 15 Soviet Union republics, where a Communist system was in force;
- after regaining independence in 1991 Estonia is again an independent democratic state with a market economy.

The new Constitution on 28 June 1992, following a referendum, of the Estonian Republic was adopted. The constitution establishes Estonia as a constitutional state with a separation and balance of the different branches of power, with independence of the courts, and with guarantees of basic civil and human rights in accordance with internationally recognized norms and principles. Estonia is a democratic parliamentary republic, where the people are the ultimate power.

The Estonian Constitution includes provisions for the criminal liability of citizens, and for the administering justice. For example, Article 23 contains the principle of *nulla poena sine lege* (no one may be convicted of an offence unless such an act is recognised by the law as a criminal act). Articles 148-151 state that justice in Estonia may only be administered by the court. The court is independent in its activities and administers justice in accordance with the Constitution and law. Judges are appointed for life, by the President of the Republic (Eesti Vabariigi Põhiseadus, 1992).

Estonia has in a relatively short time enacted a considerable number of new legislative acts regulating the criminal justice system. It is obvious that there is a definite drive to discard Soviet laws and their redactions. While analysing crime in Estonia and comparing it to the level of crime in other European states, it should be kept in mind that the ESSR's criminal

code (Socialist law) was in effect until the year 1992. The new redaction of this code came into effect on June 1, 1992. It is in effect to this day, although more than 40 amendments have already been made. The proposed new Estonian criminal code, based to a great extent upon Germanic law, was presented to the Estonian Parliament on May 26, 1999.

On January 1, 1998 Estonia had a population of 1, 453, 844, of whom 65% were Estonians, 28.2% Russians, 2.6% Ukrainians, 1.5% Byelorussians, 0.9% Finns and 1.85% other nationalities. From 1991 on, the Estonian population, and the percentage of non-Estonians in the population, has constantly decreased (Rahvastikustatistika 1998, 1999).

According to the UN Compendium on Human Settlements, 72% of the population of Estonia lives in urban areas. The 1997 Human Development Report assigns Estonia with a "human development index" of 0.78, which would place it in the low middle range (United Nations..., 1997).

## **2. Crime trends in Estonia 1991-1998**

In the last few years there have been extensive discussions concerning local crime and crime control in both the Estonian media and in political circles. There has often been talked about the explosive increase of crime in independent Estonia. Significantly more public attention is being paid to crime, and there has been a great increase in the fear of crime, as compared it to the earlier Soviet period.

For instance, according to the results of the Estonian Institute for Economic Research, the fear of becoming a crime victim, along with concern over health problems, was in 1995 the second-third biggest concern people had, after financial problems. In December 1996 the order of peoples' concerns were the same as a year earlier, only the extent of concern about crime had somewhat decreased. 79% of respondents were concerned, or very concerned, about the danger posed by crime (a year before 84%). In 1997 this figure dropped to 70%, but a year later, again rose to 78% (EKI-TEST 1998, 1999: 57).

As a matter of fact, if one looks at changes in the Estonian crime situation during the last three decades, it becomes apparent that the total number of crimes has increased by about 700%. It is noteworthy that the increase in crime has not been a gradual process during this time span. After a long period of relative stability, the number of crimes began to increase at the end of 1970-s. In the years 1985-1987 there was a certain decrease in crime, which gave way to a new increase beginning in 1988. In the years 1989 to 1991 there was an unprecedented rapid increase in Estonian criminality. Therefore, there was a great increase in crime already before re-independence (see Table 1 in Appendix).

The extensive increase in crime continued in Estonia in 1992. During the next two years (1993, 1994) there was a drop in the total number of crimes, followed by a period of relative stability. Starting in 1997, one can again talk about a new increase in the number of crimes. In 1998 45, 721 crimes were committed, that is 3153.8 crimes per 100, 000 population. Comparing the statistics of 1992 and 1998, it is apparent that there was an

increase of about 10.8% in the number of crimes. Since the Estonian population has decreased during the independence period, the larger increase is especially noticeable per 100, 000 population. The number of crimes per 100, 000 population topped the 3,000 level for the first time last year.

Table 2. Registered crimes and the crime rate in Estonia 1991-1998

Year	Number of crimes	Rate per 100 000 population	Number of cleared crimes	Clearance rate (%)
1991	31 748	2026.9	5157	17.0
1992	41 254	2671.2	6951	16.7
1993	37 163	2450.2	9956	23.2
1994	35 739	2369.0	9650	26.7
1995	39 570	2679.9	11 283	28.5
1996	35 411	2408.6	11 523	32.5
1997	40 972	2802.0	12 994	31.7
1998	45 721	3153.8	12 939	28.3

Source: Estonian Police Department

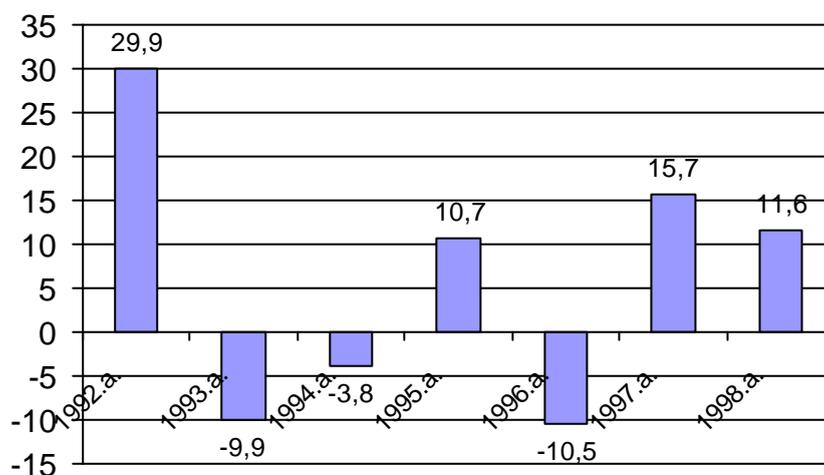


Figure 1. The growth of registered crimes compared with the previous year in Estonia 1992-1998.

Not only have crime quantitative characteristics undergone significant changes during independence, but crime has acquired new quality indicators too. First of all, the crime rate has increased primarily due to an increase of property crimes. A categorization of registered crimes shows that the majority of crimes today are property crimes. This category of crime continually forms about 80% of the total number of crimes committed (in 1998 this figure was 82.0%). But if car thefts, statistically in Estonia categorized as crimes against public order, committed nearly 1500 times a year, are added, then property crimes form about 85% of all crimes. Therefore, the characteristics of a society with a market economy are

becoming ever more apparent in Estonian crime situation. In comparison with the earlier system, which was based upon a more-or-less equal distribution of goods, and in which goods were constantly in short supply, there is now noticeably more property to steal.

Secondly, it is noteworthy that the number of violent crimes (homicides, rapes, assaults and robberies) began to decrease in 1995. In criminology, it is generally accepted that, rather than the total number of crimes, a better indicator of the dynamics of criminality is the number of violent crimes, especially the number of homicides. According to the crime statistics, there was an increase in all these crime categories from the beginning of independence until 1994, when a top level was achieved. After that point began a decrease in these crime categories, which has continued to this day (see Table 3).

Table 3. The number of rapes, aggravated assaults and robberies in Estonia 1992-1998.

Year	Rape / of all crimes	%	Aggravated assault/ % of all crimes	Robbery/ of all crimes	%	
1992	72	/0.17	223	/0.54	468	/1.13
1993	104	/0.28	220	/0.59	612	/1.65
1994	124	/0.35	248	/0.69	786	/2.20
1995	102	/0.26	223	/0.56	694	/1.75
1996	94	/0.26	229	/0.65	577	/1.63
1997	97	/0.24	233	/0.57	484	/1.18
1998	53	/0.12	197	/0.43	481	/1.05

Source: Estonian Police Department

Special attention has to be paid to homicides committed in Estonia, a phenomenon which has attracted international interest. The dynamics of homicides are similar to other serious crimes, which achieved a maximum in 1994. In the following years there has been a gradual decrease in homicides. But if the homicide rate per 100,000 population in Estonia is compared with the indicators of other European states, there is no doubt that, even after the decrease, the homicide rate in Estonia is still very high. Looking at the number of homicides in Estonia during the last several decades, the optimal level seems to be about 100 homicides a year, that is about 7 homicides per 100,000 population. The number of homicide, as a percentage of all crimes committed, is still too high when compared to Western European and Scandinavian states. If in Estonia homicides, on the average, form 0.4-1.0% of all crimes, then the same indicator for Finland and Sweden are 0.05% and 0.015% respectively, or 10 times lower (Lehti, 1998: 7-10).

Table 4. The number of intentional homicides in Estonia 1991-1998

Years	Number of intentional homi- cides	Homicide rate per 100 000 population	% to all crimes
1991	136	8.7	0.43
1992	239	15.5	0.58
1993	328	21.7	0.88

1994	365	24.2	1.02
1995	304	20.6	0.77
1996	268	18.2	0.76
1997	247	17.0	0.60
1998	248	17.1	0.54

Source: Estonian Police Department

In Estonia a relatively new category of crime has appeared, namely drug related crime. The number of these crimes has increased, since 1993, nearly tenfold. If in 1993 there were 27 drug related crimes, then in 1998 the corresponding number was already 235. This development is giving cause for concern, indicating a sharp increase in the spread of drugs, especially among the youth. Sociological studies indicate that by now there are about 10,000 drug addicts in Estonia.

Studies of victimization give about the same results as those of registered crime. According to an Estonian Institute of Economic Research study in 1998, 26% of respondents had been crime victims (26% and 23% in 1997 and in 1996) during the previous year. The crime had been committed against them personally or against a member of their family. There was somewhat of a change in the crime structure: in 1998, 8% of those questioned had things stolen from their car (9% in 1997). 7% (8%) had property stolen from their yard or field and 6% (6%) were victims of pick-pocketing. 7% (5%) were victims of assault, 6% (5%) burglary victims and 6% (5%) had property stolen from a garden shed or cottage (EKI-TEST 1998: 59).

Two International Crime Victimization Surveys (ICVS 1993 and 1995) show that in 1994 7.0% of the Estonian population had been victims of theft of property from their cars (7.3% in 1992). During the same years 4.2% (5.7%) of the population had been burglarized, 2.7% (2.7%) had had their pockets picked and 1.7% (2.2%) had been assaulted (Aromaa & Ahven, 1995: 3-11). These indicators noticeably surpassed the average victimization rate in Western European states 2-4 times. The burglary indicator surpassed Finland nearly tenfold and Western European states, on the average, 3 times (Ahven, 1994: 67-68).

### Clearing crimes

Looking at the number of cleared crimes, it becomes apparent that the Estonian criminal justice system was in 1998 capable of solving twice as many crimes as in 1991. During this period, the part of cleared crimes increased from 17% to nearly 28%. Of course, if that is compared with the Soviet era indicator of 90%, there has been a drastic decrease in the percentage of solved crimes. But this should not be interpreted as gross incompetency of the present criminal justice system. But rather, that along with the general increase of crime in present day Estonia, crime and crime control have undergone fundamental changes. On the basis of the cleared crimes for the first independence years, it can be said that the law enforcement agencies were incapable of reacting to the increase in crime. It is obvious that

the criminal justice system has by now overcome the great shock brought about by the social and organizational changes and has started to adapt to the new conditions.

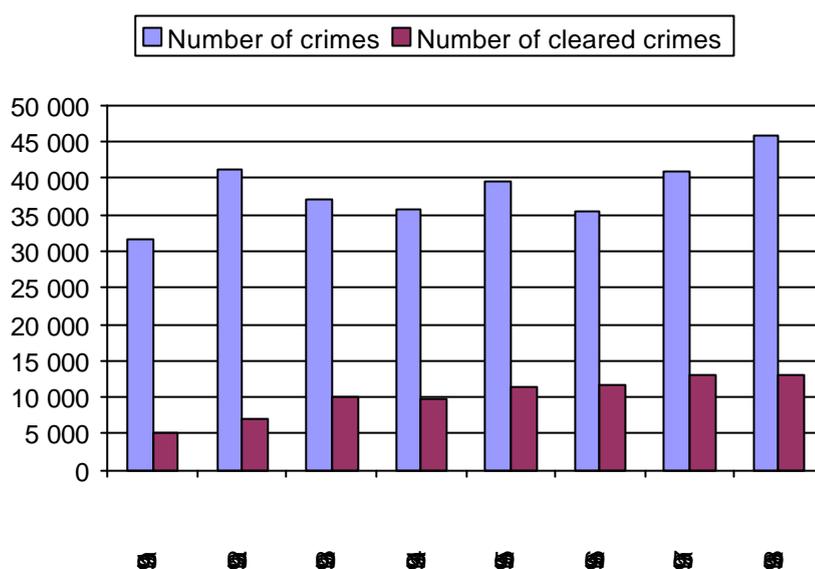


Figure 2. The number of registered crimes and cleared crimes in Estonia 1991-1998

The percentage of cleared crimes in the different crime categories differs, and has, during the last few years, undergone essential changes. For instance, if the indicators for the 1994 are compared with those for 1998, then it becomes apparent that the rate of cleared intentional homicides has increased over 11.5%, for aggravated assaults 6.3%, and for robberies 5.2%. The same can be said for major property crimes like car thefts 4.6%, burglaries 1.3%. At the same time it must be noted that the percentage of cleared crimes in some crime categories in 1998 has decreased if compared to 1997 (see Table 5).

Table 5. The clearance rate for different crimes in Estonia 1994-1998

	1994	1995	1996	1997	1998
Intentional homicide	60.3	69.4	70.5	73.7	71.8
Aggravated assault	55.6	67.6	65.9	58.8	61.9
Rape	68.5	67.6	79.8	71.1	69.8
Burglary	17.4	18.3	21.9	19.7	18.7

Car theft	9.6	12.1	15.0	16.6	14.2
Robbery	40.5	43.1	43.8	51.4	45.7

Source: Estonian Police Department

### Organized crime

A whole set of relatively unique problems have arisen with the question of organized crime in Estonia. The traditional crime statistics basis is inadequate for dealing with this sort of crime. Although organized crime does not affect the general population as much as “ordinary” crime, it has a major effect on public opinion and the people’s sense of justice.

Organized crime has been substantially imported from the former Soviet Union, where this category of crime is not a new phenomenon. The origin and development of organized crime can be traced through several decades of the history of the Soviet Union and is directly connected with the centrally directed economic system of the time. The role of the “shadow economy” started to noticeably increase in the 1960-s. The process reached its culmination at the beginning of the 1980-s, when organized crime became the link between the criminal world and official state authorities.

A new stage in the development of organized crime began during the “perestroika” period in the mid 1980-s. It was then that the strong foundations were laid for what we know today as the “Mafia”. The legalization of private enterprise gave mobsters the chance to put their huge financial resources into legal circulation. “Dirty money” poured unchecked into newly formed co-operatives, companies and banks, blurring the borderlines between legal and illegal activities. When the Soviet empire collapsed, all checks and controls which had hitherto prevented the growth of the “Mafia”, disappeared.

First of all, such essential parts of the Soviet power structure as the KGB, the Army, the Militia and the prison system disappeared or started to disintegrate. Not that they completely evaporated, but they were no longer under central control. They crumbled into multiple pieces, and were no longer able to function as binding elements of the society.

Secondly, vast material resources, from a very wide variety of military weapons and technology to foreign bank deposits of the Soviet Communist Party and the KGB. On the basis of the latter, hundreds of companies were created, as a result of which the ties between organized crime and the former Soviet “nomenklatura” bureaucracy intensified.

Thirdly, the well controlled borders of the former Soviet Union and Eastern Europe no longer functioned. Fourthly, a very large number of people no longer had useful employment or a satisfactory wage. For instance, the thousands of Afganistan war veterans, former KGB and GRU( Soviet Military Intelligence) employees, who had the appropriate ideology and ambitions, in addition to the experience and qualifications (Saar, 1994).

Thanks to these extraordinary preconditions, it did not take long for criminal organizations to become very active in Estonia, as in other former Soviet republics. If in 1990 there were approximately 785 organized crime groups in the whole Soviet Union, then by the beginning of 1994 5,691 groups operated in Russia alone, involving at least 100,000 people with organized crime (Security Police Data). The “Mafia” became involved in everything which offers quick and large profits, not to even mention the traditional sources of revenue -

narcotics, dealing in weapons and strategic metals, prostitution etc. It was not important for them how profits were made, but that the scope of activities could constantly be expanded.

On the basis of what has taken place during the last few years in Estonia, the following observations can be made about organized crime developments:

- organized crime is expanding and diversifying, encompassing new and hitherto unexploited fields;
- the organizational capabilities are constantly increasing, ties with international (especially in neighbouring countries) criminal organizations are intensifying;
- organized crime activities are constantly becoming more refined and sophisticated, and harder to solve (financial crime, money laundering, etc.). For instance, to “launder money”, constantly more opportunities are being made for exporting money to tax-free areas via off-shore companies;
- the amount of money moving in organized crime circles is constantly increasing and greater efforts are being made to place this money into legal business enterprises and various real estate acquisitions, not only in Estonia, but also abroad;
- if at first, from the point of view of international organized crime, Estonia was treated primarily as a transit country, then now, as a result of Estonia’s economic development, organized crime circles are evermore making capital investments in Estonia;
- to ensure the continuation of their activities and to potentially increase their profits, organized crime is trying to get involved in the governmental structure, both horizontally and vertically, paying special attention to bribing, or manipulating in other ways, the criminal justice system’s employees.

The crime statistics and victimization studies show that under the current circumstances, a continuously growing part of the Estonian population comes into conflict with the existing laws. Based on the high crime rate, it can be stated that the conflict between the valuational attitudes of the population and the criminal justice system is not only a problem of a minority; but that it can be found in any stratum. People living in Estonia breach the existing legal standards *en masse* as compared to previous times.

It can be noted that as a general trend in criminal activity in Estonia, violent crime is being abandoned in favor of property crime. The total number of crimes has increased in independent Estonia and one can obviously talk about a new general crime level, which will remain at about 40-45 thousand registered crimes per year. At the same time, serious violent crime have constantly decreased since 1994, and hopefully, the rate for this category of crime will, in time, reach the average level for small Western European and Scandinavian states. As a dangerous development, it should be noted that there has been a drastic increase in drug related crimes in Estonia.

Organized crime in Estonia is a phenomena starting to resemble a stragely unique business enterprise. Rather special measures will have be employed to control activity of this nature. Taking into consideration the fact the European Union is a union of states amongst whom there are very few border controls and checks since the freedom of movement is important, it is essential that Estonia be able to control its organized crime, and guarantee the security of its borders.

## **Police in Estonia 1991-1998**

The first legal basis for creating the Estonian police were laid already during the crumbling phase of the Soviet regime, when the act regulating police activity was passed September 20, 1990 ("Police Force Act"). Since at that time there obviously were no official plans for giving Estonia full independence, the law regulating police activity was more an attempt to reform the Soviet "militia". The main role of the police was to remain the protection of the state, rather than its citizens, and this was to be done as earlier primarily through repressive measures. At the same time, just as the former rank system was being changed, the police also lost many of the guarantees and benefits that the "militia" had had.

It soon became obvious that the aforementioned law was a hindrance to the development of the new police system. This law remained in effect until May 14, 1998, when a new "Police Service Act" was passed. The passing of this Act was a very important step in the development of the Estonian police, since it laid the basis for stabilizing the personnel of the police force. The Act specified how personnel are to be recruited, their working conditions, benefits, ranks, and the regulations concerned with leaving the police force. The passing of this Act meant that the police now had a concrete career structure, which gives a young person wishing to become a police officer, opportunities and guarantees for a long and progressive career.

Of the more important legal acts regulating the police force, one should also mention the "State Police Department Statute"(August 1, 1997) and the new "The Security Police Department Statute"(August 3, 1998). The first "Security Police Department Statute" were passed June 18, 1993, before which there was just a Security Police Bureau, which had been part of the Police Force since March 1, 1991. Therefore, it can be seen that the most important parts of the police structure were created at a time when Estonia was formally still a part of the Soviet Union. This is an essential fact to keep in mind when analyzing the problems presently facing the Estonian police.

Foreign experts have all along tried to help develop the Estonian police force. The police has also received essential international economical aid and training assistance. For instance in 1992, 1993 and 1994 prominent police experts from Strathclyde, Scotland (UK) visited Estonia with the aim of determining how the Estonian police force is developing and what training assistance is required. Each visit resulted in a great many recommendations about what improvements the police should make. For the seven day period November 8-15, 1997 the Council of Europe sent an international commission to Estonia with the aim of observing the Estonian police forces' organisational structure, and the ongoing personnel training. This commission found that there were serious deficiencies in police operations and

the police force's development, which had to be remedied within a year, that is by the end of 1998. (Richardson, Launiainen, Röper, 1997).

### Structure and staff of the Estonian police

The Estonian police structure consists of two larger independent branches: The State Police Department and The Security Police Department. The State Police is responsible for public order and internal security, for crime prevention and crime detection, and for carrying out pre-trial criminal investigations. The Security Police is responsible for maintaining the state's constitutional and territorial integrity, for protecting state secrets, for conducting counter-intelligence, for fighting against terrorism and corruption. On a territorial basis, the State Police is divided up into 17 prefectures, whereas the Security Police into four regional sections. To maintain the effectiveness of the security Police, its internal structure and matters concerning personnel are kept secret.

The State Police is structurally divided into two main branches: the Central Criminal Police and the Constabulary. Until May 1998, the Traffic Police existed as a separate branch, which was then reorganized so that traffic problems fell under the jurisdiction of the prefectures. In 1993, the Criminal Police should have had a staff of 1387, but only 78% of the positions were filled. The Criminal Police formed 19% of the overall police force. By 1997, the staff of the Criminal Police had been reduced to 1212, and 85% of the positions were filled. The Criminal Police now formed 21% of the force. In 1993 the Constabulary should have consisted of 2788, but only 785 of the positions were filled. By the end of 1997 this percentage had fallen to 73%, and by the end of 1998 to 72%.

In re-independent Estonia, the police officer is under-paid and lacks prestige. Keeping in mind the peculiarities of police work, and the stress and danger involved, then the police officer's pay, which is below the national average, is too low. Also, before the passing of the "Police Service Act" the police did not have essential official benefits like health and life insurance and a special pension. Due to all this, police officers often lacked the motivation to stay on the job, since in other spheres of activity, they could often, for the same amount of, or even less, effort, earn more. The police force's big competitors are private security firms, offering attractive alternatives primarily for lower ranking police officers. Therefore, the lack of staff motivations has been one of the main factors negatively influencing police work.

During independence, there have been changes in the professional training, and the ethnic and age composition of the police in Estonia. In 1992 the police had a staff of 6807, with 81.5% of the positions filled. From year to year the staff has been reduced, and by the end of 1997, there were about 1200 fewer police staff positions than in 1992. At the same time, the percentage of positions filled fluctuated between 75% and 81.5%. Between 1993 and 1997, 3975 new police officers were recruited. During this same period 1386 officers were released from duty (see Figure 3 ). In 1998, 686 police officers (13% of the force) were,

for various reasons, released from duty, which is a large number. To maintain stability and efficiency, staff turnover should not be more than 5% annually. By January 1, 1999, 1217 police staff positions, or 23%, had not been filled.

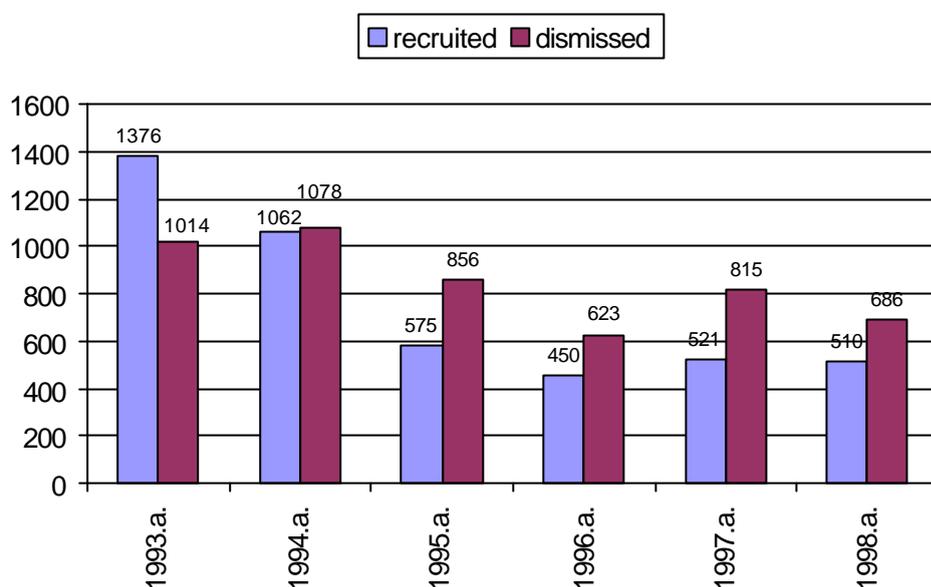


Figure 3. Turnover of the police staff 1993-1998 (Source: State Police Department)

Substantial changes have taken place in the ethnic composition of Estonian police forces, where ethnic Russians had predominated during the Soviet period. For instance, in 1991 Russians formed about 2/3, and in the capital city of Tallinn up to 90% of the police force (Lieven 1994: 322). By the end of 1992, ethnic Estonians formed 58.6% of the police staff, and by the end of 1996 70% (Aimre 1998: 20). Starting in 1997, the State Police Department no longer categorizes its employees nationality.

One of the major problems of the Estonian police force is not so much the question of its ethnic composition, but the question of not knowing the official state language (Estonian), and the directly connected problem with obtaining Estonian citizenship. In 1992, 50.4% of non-Estonian police officers did not have a working knowledge of Estonian. In 1997, 681 police officers could not speak Estonian, and 315 did not have Estonian citizenship. The percentage of non-Estonian speaking police officers is especially high in Tallinn and the province of Ida-Virumaa (which borders on Russia and has a large Russian population). In Tallinn there is also the problem that many police officers lack a knowledge of English for dealing with foreigners, and young ethnic Estonian officers often do not know enough Russian to communicate with the large Russian-speaking population in the capital.

From 1991 on, the police force staff has constantly gotten older. Between 1992 and 1997, the percentage of up to 25 year olds on the police force dropped from 36.5% to 17%. At the same time the percentage of 35-55 year olds has risen from 27% to 39%. If in

1992 there were 2010 up to 25 year olds, then by 1997, the number had dropped to 764. At the same time, the average length of service kept rising. If in 1992 the percentage of officers with a length of service of up to three years was 38%, then by 1997, it had dropped to 11%. At the same time, the percentage of officers with a length of service of over 15 years rose from 18% to 27%. These statistics show that we are not dealing with a natural ageing of the police personnel, but rather with the problem of young people leaving the force, and of young people not wanting to join the police.

#### Police officers` education and professional training

At the beginning of Estonian re-independence, two police basic training centers were created, of which one was in a Tallinn suburb in a former "militia" school. The other, a newly created (1990) center for training police officers, was near the resort town Pärnu (Paikuse). In 1997 the Tallinn Police School closed its doors and was transferred to Paikuse too. A degree can be obtained from the Estonian Public Service Academy`s Police College, which was founded in 1992. The first class graduated in 1996, the second in 1997, and the third in 1998. Altogether, in those three years, 197 police officers have earned their degrees at the Academy.

With a decline in the overall number of police officers, and vacancies in the lower ranks, the percentage of police officers with a college education has risen from 16% in 1992 to 25% in 1997. At the same time, the percentage of police officers with a high school education has decreased from 83% to 73%. The percentage of officers with less than a high school education has been constantly about 2%. A more serious problem than level of general education, has been the question of specialized police training, since about 25% of Estonian police officers have received non.

Many of Estonia`s present police officers are former members of the Soviet "militia" or other law enforcement agencies, and therefore received their training during the Soviet era in a manner appropriate to that society. From the beginning of independence, police training which has taken place in different locations across the country, has not been well co-ordinated, as far as duration and quality are concerned. For instance, there have been quite serious problems with co-ordinating, and establishing a unified grading system for different police training institutions. If one adds to this the problems connected with the ageing of the police force, then it becomes quite clear, how serious a question is presented by the lack of an effective police training program in Estonia.

#### Financial resources and public opinion of the police

Along with the state`s growing revenues (they have grown from 3.7 billion EEK in 1993, to 18.5 billion EEK in 1999), the amount of financial resources allocated to the police has grown constantly. The amounts appropriated have constantly been almost 4% of the national annual budget, which must be regarded as a good sign.

Table 6. Resources allocated to the State Police Department 1993-1999

	1993	1994	1995	1996	1997	1998	1999
Amount in mil. of EEK	144	279	317	372	435	483	753
% of budget	3.9	4.8	3.6	2.8	3.5	3.2	4.1

Source: Riigi Teataja

Public opinion polls have been used to determine the public's attitude towards the efficiency of the Estonian police. The Estonian Economic Research Institute has been compiling information of this nature since 1993. Police efficiency has been graded on the following bases: well, normally, badly and very badly. Comparing the answers obtained over the years, one can see that public opinion is becoming somewhat more positive (see Table 7). The number of those who find that the police are working normally, has increased substantially, and the number of those in whose opinion the police are working badly or very badly, has decreased. Those most impressed with police efficiency were ethnic Estonians over 65 years of age, with 8 years of education or less. Less impressed with police efficiency were those with a higher level of education and younger people, along with non-Estonians.

Table 7. Opinion of the efficiency of the Estonian Police (% of respondents)

Police works:

	1993	1994	1995	1996	1997	1998
well	2	2	2	2	2	3
normally	25	32	38	49	52	47
badly	54	55	52	41	40	41
very badly	19	11	8	8	6	9

Source: EKI-TEST 1998: 62

Another essential indicator of the public's opinion of police efficiency, is the rate of crimes reported to the police. According to the Estonian Economic Research Institute, the percentage of people who do not report crimes, of which they or those close to them have been victims, has grown from 38% in 1993 to 54% in 1998. The most common reason for not reporting a crime was the belief that the police are incapable of helping the victim or apprehending the culprit. The second reason was the belief that the damages caused by the crime were too trivial. When appraising these results, it should be kept in mind, that the classification of the crimes under discussion was left up to the respondents. Therefore, it must be assumed, that people classify even petty incidents as crimes, which does not correspond to official crime classification based upon the existing criminal code.

Estonian police development program and actual problems

As a response to foreign experts criticism and negative public opinion, the police department initiated the “Estonian Police Development Program for the Years 1999-2001”, which was ratified by the Estonian government in February 1999. This program was meant to be the strategic basis for transforming the police force into an organization capable of carrying out its basic tasks, which would be capable of fulfilling the requirements facing a nation striving to join the European Union. The fact that such a plan is drawn up in the eighth year of independence, without analyzing the fulfillment of previous plans and projects, is reason for worrisome contemplation.

The plan presented two possible ways for development - one a “dark” and the other a “rosy” scenario, which were primarily dependent upon the financing of the police. Although it was repeatedly stated that the police force had to be transformed from a previously punitive organization, to one whose function is to prevent crimes, advise and assist people, the program did not seem to present a mechanism for carrying out these changes. As previously, the growing crime rate was to be checked with increased street patrols, with obtaining more transport vehicles, with renovating existing buildings, with reducing the prefectures, etc. In other words, relief is to be found primarily in repressive measures and increased financial expenditures, and in structural re-organisation (Eesti Politsei Arengukava aastateks 1999-2001)

Public opinion concerning the police, which is shaped greatly by the press, is critical. The press usually presents accounts about police failures, not their successes. The negative aspects of police activity, as presented by the press, in order of importance are: police corruption (accepting bribes, connections with the “underworld”, leaking of information etc.), indifference to the citizens concerns (an indifferent or hostile attitude when crimes are registered, delays in arriving at a crime scene, etc.), and incompetency (inability to gather evidences, inactivity in connection with solving crimes, critical attitude towards victims and witnesses, etc.).

The main problems plaguing the Estonian police according to police officials can be listed in order of importance, as follows:

1. Poor motivation of police officers and the large personnel turnover.
2. Lack of resources for fulfilling basic tasks and for development.
3. The prevalence of authoritarian leadership, poor organisational structures and teamwork, poor transmission of information within police force.
4. Un-coordinated training.
5. Negative image of the police, lack of trust in the police, ineffective work with the public.

## **Corrections in Estonia 1991-1998**

The whole penal or correctional system was kept in complete secrecy in the former Soviet Union. It was the hidden part of a system used for maintaining the existing power structure. Although a great number of people were constantly incarcerated, very little was publicly known about how this system operated.

Having as its predecessor the GULAG` system, and being under the direct control of the Ministry of the Interior of the USSR, the Estonian prison system was just a link in the overall prison system of the empire. This functioned practically independently of the local authorities. In this this system the prisoners were guarded by military draftees who were supervised by specially trained, and relatively well paid and privileged officers of the of the military forces (“internal troops”).

In 1991, after Estonian re-independence, the new government accepted the concept of a modern prison system corresponding to relevant international standards. The reform of the Estonian correctional system was supposed to be based upon The European Prison Rules, The European Convention on Human Rights, and the Minimum Standards for the Treatment of Prisoners. One of the first problems facing the Estonian Republic after re-independence was the maintaining of even elementary order in places of incarceration, after Russia without warning, withdrew the troops guarding the prisons. This was a difficult time, when there was danger of prison riots breaking out, and volunteers had to be recruited to guard prisoners. Losing control over the prisons would seriously have threatened the continued existence of the new state.

It was not until some time later that the authorities could begin to deal with questions and problems concerning the basic principles for the new correctional system. On 7 May 1992, the Criminal Code of the Estonian Republic was adopted, and it entered into force on 1 June 1992. This new revision of the Soviet Penal Code considerably modified criminal law in comparison with the Criminal Code of the Estonian Soviet Socialist Republic. For example, the reform sought to remove the imprint of socialist ideology from the Criminal Code. Over forty articles were deleted, and many other articles were amended. References to socialist property and socialist rule of law were deleted. Persons previously convicted for ideological crimes were released, and cleared of all charges.

Responsibility for the administration of the Estonian prison system passed from the Ministry of Internal Affairs to the Ministry of Justice in August 1993. The running of penal

institutions was at first regulated by the Code of Execution Procedure, enacted in July 1993. It was not until May 1997 that the new Statute of the Prison Department was enacted. The education and training of supervisory personnel began in 1992 at the newly established Correctional College of the Estonian National Defence and Public Service Academy.

Foreign aid and foreign experts with their professional advice have played an important role in the creation of a new Estonian correctional system. For instance, The European Council's North-Baltic Prison Project, which promotes co-operation between Baltic states on the one hand, and Denmark, Finland, Norway and Sweden on the other, has done a great deal to improve and develop the local correctional system. In September 1993 the first report by this project's experts was presented to the Estonian Ministry of Justice and the Council of Europe (Lakes & Taylor Report, 1993). In May 1997 a new expertise was made, which analyzed the last developments in this field (Lakes & Grönholm Report, 1997). Using the European Prison Rules as a basis, experts evaluated the reforms being carried out, and made concrete recommendations for future changes and improvements (see also Walmsley Roy, 1996: 415-427).

#### The structure of sanctions

In the former Soviet Union, the basic criminal sanction was the deprivation of liberty, and the wide range of other sanctions was of secondary importance. The dominating direction in European penal policy is to minimize imprisonment and to increase the non-custodial alternatives. Estonia is trying to adjust the sanctions and their enforcement practice in accordance with accepted European requirements. It means that less stress has to be put on imprisonment and more use has to be made of alternative sanctions. At the same time, attempts are being made to improve prisons, so that their conditions would be in accordance with European Union regulations.

On December 17, 1997, the Probation Act was passed, going into effect May 1, 1998. With this, an important step was taken towards establishing a Western style correctional system, in which after care is used for bringing people back from prison into society. When this new law concerning the probation service of criminals went into effect, 26 probation officers were assigned to look after ca 5800 parolees. But the probation system began to be shaped already in 1993, when the first policy paper concerning this matter was presented to the Ministry of Justice (Kiviloo & Hilborn, 1993).

A very important characteristic of an European type correctional system is the total absence of capital punishment, which was in use in the Soviet Union right up until the end. From 1945 until 1964 condemned prisoners in Estonia were executed at the Central Prison in Tallinn. After 1964, the condemned were taken for execution to St. Petersburg (former Leningrad). Capital punishment was in effect in Estonia till March 18, 1998, when the Estonian Parliament annulled it and replaced by life imprisonment. During independence, 23 people were under sentence of death. No death sentences in Estonia were carried out after August 20, 1991 (Kangaspunta ..., 1999: 146).

#### Prisons and the prison population

At end of 1998 there were 9 penal institutions in Estonia. Of these two are pre-trial institutions (one for adults and one for juveniles), three are closed (high-security) prisons for male adults, two are semi-closed prisons for male adults, one is a semi-closed prison for women, and one a prison for juveniles. Based on the Soviet practice of making use of prison camps, Estonian institutions are to this day relatively large. The two largest institutions are the pre-trial institution for adults with capacity of ca 1000 and a closed prison for adult male recidivists with a capacity of 1200. Three others have capacities of 500, while the capacities of the other four are between 100 and 150. During independence two new prisons, conforming to contemporary standards, have been built, and construction is about to begin on a third one.

The number of prisoners per 100,000 population in the years 1991- 1998 has increased from 281.4 to 302.5 people. The total prison population consists primarily of two categories of people - sentenced prisoners and remanded prisoners. From 1994 on, the prison population statistics also encompass those under arrest (can be held for up to three months) and internees.

Table 8. The number of prisoners in Estonia 1991-1998

Year	Number of sentenced prisoners	Number of remand prisoners	Total prison population	Rate of incarceration per 100 000 population
1991	3185	1323	4408	281.4
1992	2691	2087	4778	309.4
1993	2553	1961	4514	297.6
1994	2595	1725	4401	293.5
1995	2515	1671	4224	284.6
1996	2876	1691	4638	315.7
1997	3159	1540	4790	328.5
1998	2999	1323	4379	302.5

Source: Estonian Prison Department

At the end of 1998 4379 people were being held in penal institutions in Estonia, of whom 30.2% were pre-trial detainees, 0.4% (or 16 people) were under arrest, 0.5% (or 21 people) were internees and the rest were sentenced (2999). The number of people with a life sentence was 20. Of the total number of sentenced persons 3.6% (or 108) were females and 1.6% (or 48) were under 18 years of age. Of the sentenced prisoners 42.9% were Estonians, 49.0% Russians and 8.1% of other nationalities. Compared to 1997, the prison population decreased by 411 persons.

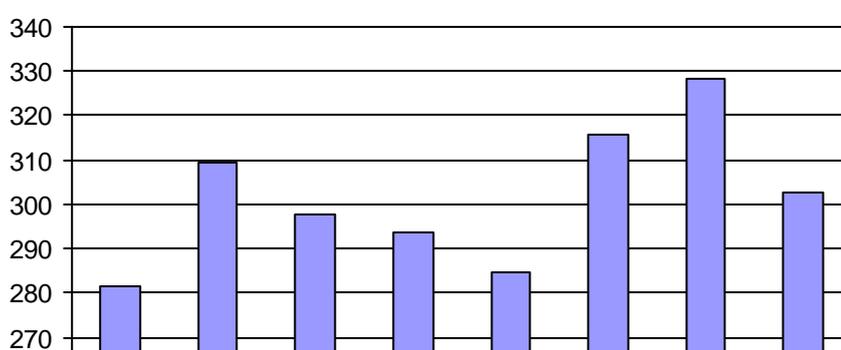


Figure 5. The number of prisoners per 100,000 population in Estonia 1991-1998.

The Estonian Ministry of Justice has adopted as its goal the reduction of the prison population to the Scandinavian levels, which range between 30 and 100 per 100,000. Despite this, the real rate of incarceration in Estonia remains very high in comparison to other European democratic states. Of the causes for this situation the following should be brought forth. Firstly as compared to Western European countries, the prison sentences in Estonia are rather severe. In 1994 the average prison sentence was 4.7 years, in 1995 4.2 years, in 1996/1997 4.5 years and 5.4 years in 1998. If this is compared to the average length of a Scandinavian prison sentence, which is less than 0.5 years, then the difference becomes very obvious. Secondly, the large number of people detained and awaiting sentencing continues to be a problem. This is a result of the long pre-trial investigation period and the slow tempo of the court proceedings. A good sign is the ever decreasing number (since 1992) of people being held in pre-trial jails.

#### Discipline in prisons and the financing of correctional system

As has already been brought forth, there were serious problems with discipline in prisons at the beginning of the re-independence era. In 1992 for instance, 23 homicides occurred in places of incarceration, 78 prisoners escaped, and 17 firearms and 1093 litres of alcohol were confiscated. Next year, in 1993, there were 12 homicides (see Table 9). The statistics concerning crime in prisons during the last few years are noticeably better. For instance in 1998, 77 crimes were committed in correctional facilities of which 18 were alcohol and drug related crimes, 1 aggravated assault, and 1 homicide. There were 5 registered escapes and attempts to escape.

Table 9. Homicides in Estonian prisons 1991-1998

Year	1991	1992	1993	1996	1997	1998
Number	9	23	12	4	2	1

Source: Estonian Prison Department

As the Estonian annual budget has increased, the amount spent on the correctional system have increased from year to year. But at the same time, it should be noted, that the percentage of the budget appropriated for this purpose has decreased. In 1993 it was 3.1% of the budget, but in 1999 only 1.3%.

Table 10. Resources appropriated for the Estonian Prison Department

	1993	1994	1995	1996	1997	1998	1999
Amount in mil. EEK	114	162	157	183	213	223	244
% of the budget	3.1	2.8	1.8	1.4	1.7	1.5	1.3

Source: Riigi Teataja

Staff and staff training

Like the all criminal justice agencies in Estonia, the prison system was suffering from a serious staff deficiency after re-independence. This means that practically all the qualified personnel had received its education and training in Soviet schools of the Ministry of the Interior. The vast majority of personel consisted then of non-Estonians or imperialistically minded Russified Estonians. In 1992 only 6% of prison staff consisted of of ethnic Estonians (Leps, 1992: 10). By the end of 1998 the number of non-citizens among the penal system`s staff had dropped to 1114 (in 1997 there had been 1170), of whom 144 have applied for Estonian citizenship. Therefore, ca 52% of the correctional system`s staff consists of Estonian citizens. But the present law requires that by the year 2001, the prison system must be staffed by Estonian citizens.

Till now there have been complications with finding staff for the prison system, since these are low prestige jobs and relatively poorly paid. In 1998, only 2312 of the 2839 positions available, or 81.4%, had been filled. During that year 461 people were hired, and 491 were fired. But as recently as 1995, 800 people left employment in the prison system, and 1000 were hired, which means that things have somewhat stabilized.

The prison system`s staff receives its training through two different educational structures - the Ministry of Internal Affairs` higher institution of learning, The Estonian National Defence and Public Service Academy, and the correctional service`s Training Center. The function of the Training Center is to provide new employees with basic training and to offer short-term refresher courses. The Academy provides up-to-date schooling for senior supervisory staff. So far, three classes, a total of more than 70 people, have graduated from the Academy. These very same Academy graduates are instrumental in carrying out the ongoing reforms in the correctional system, since they already occupy many of the seniors positions in the system. It would suffice to mention that the last two Directors of the prison system have been, and the wardens of three prisons are Academy graduates.

Public opinion

The high crime rate and the public's demand that criminals be harshly punished, have developed synchronously. For instance, before the abolishing of the death penalty, there was an extensive public debate in Estonia concerning the arguments pro and contra of this issue. On the basis of a public opinion poll, 72% of the Estonian population supported capital punishment in 1995. The supporters of capital punishment dominated public opinion until the death sentence was abolished. It should be attributed to a great extent to the lack of information being disseminated among the public. The same phenomena occurred in connection with the passing of the probation service and in connection with adopting programs to improve prisoners' living conditions. The public's primarily emotional, positions supporting harsh punishments, will probably not change until some time in the future, when is dominated in public opinion of the new generations that have grown up in a free society.

At the same time, public opinion is considerably more positive concerning the correctional system than the police. This is obviously caused by the fact that the average citizen has much less direct contact with the correctional system than with the police. The second reason is that obvious improvements have been made in the prison system and there is relatively little negative information about the penal system in the mass media. These improvements have also been noted by foreign experts, who have praised the progress made in the Estonian correctional system in a relatively short time (Lakes & Grönholm, 1997: 44-45).

On the basis of a questionnaire filled out by senior staff members of the Prison Department, the following list of problems needing solving was drawn up in order of importance:

1. The amending and updating of laws.
2. The development of a unified training and educational programs for the correctional system.
3. To increase the possibilities for prisoners to be employed during the imprisonment.
4. The building of new prisons to replace old and degenerating ones (primarily the Tallinn Central Prison, which was built as a coastal fortification in 1765).
5. The increasing of correctional systems' employees' wages, thereby increasing the status of working in this system.

## **Conclusions and further considerations**

Observing the development of Estonian crime after the re-establishment of independence, one can distinguish two periods that partially coincide with the periods of the development of Estonia as a transition society. Period I (1988-1994), that is called the penetration into a new society, is actually the continuation of the previous situation, i.e. the continuation of economic and social decline, if crime indicators are taken into consideration. Thus, the the previous crime tendencies that began to appear at the end of the eighties, actually lasted till 1994, when violent crime reached its maximum. The breakthrough into new statehood took place after independence declared in 1991 and it ended approximately in 1994. At that point one could start talking about the real, final independence of Estonia. The departure of foreign armed forces from Estonia, in the same year, was one of the most important formal characteristics of its period.

Period II (1994-1998) was when the basics necessary for statehood were established and when real economic reforms were implemented. It was a stabilization period for crime, when criminals began to strive for greater sophistication, especially in the category of property crime. In this category a new, higher level, compared to the previous one, was achieved. The total number of crimes committed during this period was more than for times greater than the total for the early 1980's. Evidently, crime statistics will remain at this high level for some time. But beginning in 1994, crimes against individuals have declined steadily, a trend which has continued to this day. Most of the problems connected with the efficient control organized crime, which until 1994 had grown unchecked, were solved during this period. In addition, law enforcement agencies improved their legal skills so that they were able to cope with "white collar" crime.

Until about 1994 Estonian society was under the balanced influence of two different civilizations (cultures), but thereafter, the majority of Estonia`s people tended to opt for the Western Christianity model. It is not yet clear whether it is possible to talk about the

beginning of a stabilization period, starting with 1998. Economic and cultural stabilization, which should be accompanied by a stabilization of crime (especially violent crime) has probably not occurred yet. The world economic crisis has no doubt played a certain part in this delay, but the time required for profound changes in civilization (culture) is also very important.

The results of the development analysis of the Estonian criminal justice system confirm this viewpoint. This criminal justice system had to deal with crime that had become more intensive, dangerous and qualitatively sophisticated. For example, in 1991-1997 thirteen Estonian policemen lost their lives on duty. At the same time present-day Estonian society is characterized by the decrease of direct control of the individual, and greater openness. The media covers crime very regularly. But it is very possible that every incident and unsolved crime covered may increase the population's dissatisfaction with the performance of the whole criminal justice system.

Along with actual daily routine work, structural and organizational changes also had to be implemented in the criminal justice system. But not all the units of the system have coped with this. Thus, the development of the criminal justice system has been uneven, and in some units significant development can not be detected. The regular implementation of improperly elaborated and unprepared pseudo reforms has become one of the problems of the criminal justice system. When comparing the development of the police with the correctional system, it can be said that corrections is developing faster.

One of the factors that has hampered the development of the police, is its previous politicization and its dependence on political changes. As the Minister of Internal Affairs and the Director of the State Police Department were directly interrelated with each other, eight directors of the State Police Department have had to leave their post during the independence. Thus the average service time in that post is less than a year. Consequently, the results are troublesome, as well as noticeable in numerous spheres of police performance. Together with the frequent changing of top managers, extensive "team" renewals have taken place, and the style of management, as well as the ideology, has changed. This all has caused inconstancy and instability of the police's development, as well as the delaying of substantial reforms. This can be compared to the Security Police that functions independently within the ruling area of the Ministry of Interior and whose general director was appointed for a certain period from the very beginning. During independence the Security Police has developed into an active organization that co-operates efficiently with other agencies. As far as the Director of the State Police Department is concerned, a fixed service period was established as recently as 1998, together with the establishment of the Police Service Act. Too little time has passed to tell if the Act is helping to bring about fundamental changes.

Another important problem with the Estonian police is that there are far too few recently educated younger people among the senior administration. The rise of the police officials' average age and the lack of new qualified personnel noticeably decreases the police's development potential. Due to this situation, traditional thinking stereotypes and the resistance to changes is quite constant in this unit of the criminal justice system. Public

opinion is comparatively critical of the police's performance and this criticism is to a great extent justified.

A similar situation to the police also prevailed in the Estonian correctional system, at the beginning of independence, where before 1994 four top administrators were replaced. Beginning in 1996, when younger, recently educated people started to manage the correctional system, the development process could begin. The fact that the Soviet prison camp system turned out to be absolutely unacceptable for the developing democratic state, excluded the possibility that only superficial changes would be implemented. The attunement of relevant legislation with European and international standards was done comparatively quickly. For example, up to now, the government has approved and passed on the Parliament the very important Imprisonment Act that shall regulate the corrections. This law should become effective May 1, 2000.

The criminal justice system of a truly democratic state functions in the interests of and the consent of the populace, because every inhabitant has a need for, and right to security. It is vitally important that the Estonian Republic develop a criminal justice system with a professional and experienced management staff, and that crime can be effectively controlled. The Estonian police, and to a lesser extent corrections, to some extent still bear traces of the Soviet era, which means that a great deal must be done to develop an efficient and humane criminal justice system.

Finally, a fact, which became obvious in the course carrying out this project, must be brought forth. It is the need for additional scientific, foremost criminological research that would document these processes that have already taken, and take place in Estonia. One can say that many important decisions in the sphere of crime control are still made only on the basis of "common sense". Unfortunately, the experience that is relied upon, comes mostly from the previous society. Foreign experts, who as a rule are practitioners, are not familiar with the local situation and therefore it has sometimes been difficult to put their proposals into practice.

Research is important not only because of its contribution to social scientific knowledge, but also because of the contribution it can make to democratic processes themselves. By providing information on trends in crime and crime control, and by providing analyses of the possibilities and pitfalls of reform, research can provide policy-makers, politicians, and the public with a useful knowledge-base for forming opinions and for making decisions about crime and justice. By documenting historical and current developments in policing, corrections, and other aspects of criminal justice, research can facilitate informed discussion about and the maintenance of democracy in the crime control sphere.

Thus, the crime and the criminal justice system in Estonia need further in depth analysis and research, that would enable us to better solve new complicated problems. Some of them are as follows:

- to investigate and establish new possibilities for regular research, with standardized methodology, of latent crime, the results of which could be compared with the official crime statistics;
- to make further analysis of the media's role in covering crime and the activities of the criminal justice system, as well as in changing people's attitudes and public opinion;
- to establish scientifically justified criteria for the efficient assessment of the criminal justice system as a whole and its individual parts;
- to investigate the possibilities for implementing alternative work models in the criminal justice system, that will primarily be based on the principles of community policing and community corrections;
- to develop the training principles and methods for educating the personnel of the criminal justice system, who would fit into a democratic society, would be professional and competent, as well as have a humanistic conception of the world.

## References

- Ahven, A. (1994). Kuritegevuse tase, struktuur ja dünaamika Eestis. In Kuritegevus ja kriminaalpreventsioon Eestis (Tustad. Hetkeseis. Perspektiivid). Proceedings of the Estonian National Defence and Public Service Academy, No. 2. Tallinn, 60-69.
- Aromaa, K. & Ahven, A. (1995). *Victims of Crime in a Time of Change: Estonia 1993 and 1995*. Research Communications, No. 19. National Research Institute of Legal Policy, Helsinki.
- Aimre, I. (1998) *Politsei tegevus ja elanike hinnangud*. Kriminaalpreventsiooni Nõukogu, Politseiamet, Sisekaitseakadeemia. Tallinn.
- Albrecht, H.-J. (1997). Ethnic Minorities, Crime, and Criminal Justice in Germany. In *Ethnicity, Crime and Immigration: Comparative and Cross-National Perspectives. Crime and Justice: A Review of Research*, Vol. 21. Chicago: University of Chicago Press, 51- 99.
- Brzezinski, Z. (1994). Polska scena obrotowa. *Polityka*, No. 4, Oct. 29.
- Christie, N. (1993). *Crime Control as Industry: Towards GULAGS, Western Style?* London & New York: Routledge.

- Currie, E. (1982). Crime, Justice, and the Social Environment. In D. Kairys (Ed.), *The Politics of Law: A Progressive Critique*, New York: Pantheon, 294-313.
- Durkheim, E. (1938). *The Rules of Sociological Method*. New York: Macmillan.
- Durkheim, E. (1951). *Suicide*. New York: Free Press.
- Eesti Inimarengu Aruanne 1997*.(1998) Koostaja E. Terk, Tallinn.
- EKI-TEST 1998*. (1999) Estonian Institute of Economic Research, Tallinn.
- Eesti Vabariigi Põhiseadus*. (1992). Tallinn: Olion, Eesti Entsüklopeediakirjastus.
- Gendreau, P. & Andrews; D. A. (1990) Tertiary Prevention: What the Meta-analyses of the Offender Treatment Literature Tell Us About "What Works". *Canadian Journal of Criminology*, 32, 173-184.
- Hayek, F. H. (1997). *Hukutav upsakus*. Tallinn: Olion.
- Hirsch, F. (1976). *Social Limits to Growth*. Cambridge, MA: Harvard University Press.
- Hofstede, G. (1991). *Cultures and Organizations*. London: McGraw-Hill.
- Hood, R. (1993). *Psychosocial Interventions in the Criminal Justice System. Introduction by The General Rapporteur*. Twentieth Criminological Research Conference. Strasbourg, 22-25 November 1993. Council of Europe.
- Huntington, S. P. (1993). The Clash of Civilizations? *Foreign Affairs*, 72 (3), 22- 49.
- Huntington, S. P. (1996). *The Clash of Civilizations and the Remaking of the World Order*. New York: Simon & Schuster.
- Inglehart, R. (1995). Changing Values, Economic Development and Political Change. *International Social Science Journal*, 145, 379- 404.
- Kangaspunta, K., Joutsen, M., Ollus, N. & Nevala, S. (Eds.) (1999) *Profiles of Criminal Justice Systems in Europa and North America 1990-1994*. HEUNI Publication Series No. 33, Helsinki.
- Kirkpatrick, J. J. (1993). The Modernizing Imperative: Tradition and Change. *Foreign Affairs*, 72 (4), 22- 24.
- Lagerspetz, M. (1999) *Postsotsialism kui naasmine. Märkmeid ühest kõnestrateegiast*. Vikerkaar, 1, 33-52.

- Lauristin, M., Vihalemm, P., Rosengren, K. E. and Weibull, L. (Eds.)(1997). *Return to the Western World: Cultural and Political Perspectives on the Estonian Post-Communist Transition*. Tartu: Tartu University Press.
- Lehti, M. (1998) *Tahtlikud tapmised Eestis 1990ndatel aastatel*. Sisekaitseakadeemia. English Summary: Homicides in Estonia in the 1990s. Tallinn.
- Leps, A.(1992). *A Brief Survey of the Criminogenic Situation in the Republic of Estonia, 1945-1992. Research monograph*. Tallinn.
- Lieven, A. (1994). *The Baltic Revolution: Estonia, Latvia, Lithuania and the Path to Independence*. New Haven: Yale University Press.
- Lipsey, M. W. (1992). The Effect of Treatment on Juvenile Delinquents: Results from Meta-analysis. In F. Lösel, D. Bender & T. Bliesener (Eds.), *Psychology and Law Facing the Nineties*. Berlin, New York: de Gruyter.
- Lipton, D., Martinson, R. & Wilks, J. (1975). *The Effectiveness of Correctional Treatment*. New York: Praeger.
- Litwack, J. (1991). Legality and Market Reform in Soviet-type Economies. *Journal of Economic Perspectives*, 5 ( 4), 77-89.
- Lotspeich, R. (1995). Crime in the Transition Economies. *Europe-Asia Studies*, 47 (4), 555- 589.
- Lösel, F. (1993) *Evaluating Psychosocial Interventions in Prison and Other Penal Context*. Twentieth Criminological Research Conference, Strasbourg, 22-25 November 1993. Council of Europe.
- Maio, G. R. & Olson, J. M. (1995). Relations Between Values, Attitudes, and Behavioral Intentions. *Journal of Experimental Social Psychology*, 31, 266-285.
- Menninger, K. (1966). *The Crime of Punishment*. New York: Viking Press.
- Merton, R. K. (1938). Social Structure and Anomie. *American Sociological Review*, October, Vol. 3., 672- 682.
- Nussbaum, B. (1997). Capital, not Culture. *Foreign Affairs*, 76 (2), 165.
- Offe, C. (1991). Capitalism by Democratic Design? Democratic Theory Facing Triple Transition in East Central Europe. *Social Research*, 58 (4), 865-902.
- Offe, C. (1996). *Varieties of Transition*. Cambridge: Polity Press.
- Rahvastikustatistika Teatmik*. 3-4/99. Statistical Office of Estonia, Tallinn.

- Rokeach, M. (1973). *The Nature of Human Values*. New York: Free Press.
- Saar, J. (1994). *Uus revolutsioonäride põlvkond ehk vene maffia Eestis*. Postimees, 08/09 November.
- Schüler-Springorum, H. (1986). Die sozialtherapeutischen Anstalten - ein kriminalpolitisches Lehrstück. In H. J. Hirsch, G. Kaiser, & H. Marquardt (Eds.), *Gedächtnisschrift für Hilde Kaufmann*, Berlin: de Gruyter, 167-188.
- Schwartz, S. H. (1996). Value priorities and Behavior: Applying a Theory of Integrated Value Systems. In Seligman, C., Olson, J. M. and Zanna, M. P. (Eds.), *The Psychology of Values: The Ontario Symposium*, Vol. 8. Hillsdale, NJ and London: Lawrence Erlbaum Associates, 60- 71.
- Sellin, T. (1938). *Culture Conflict and Crime*. New York: Social Science Research Council, Bulletin, 41.
- Shelley, L. I. (1997). More than just a crime problem: Organized crime in the Baltics. In E. Raska and J. Saar (Eds.). *Crime and Criminology at the End of the Century : IX Baltic Criminological Seminar, 1996 May 22- 25*. Tallinn: Estonian National Defence and Public Service Academy, 58- 68.
- Smith, T. (1997). Dangerous Conjecture. *Foreign Affairs*, 76 (2), 163- 164.
- Sztompka, P. (1993). *The Sociology of Social Change*. Oxford, UK and Cambridge, MA: Blackwell.
- Sztompka, P. (1996). Looking Back: The Year 1989 as a Cultural and Civilizational Break. *Communist and Post-Communist Studies* , 29 (2), 115- 129.
- Sutherland, E. (1939). *Principles of Criminology*. Philadelphia: Lippincott.
- Taylor, M. (1995). Future Developments of Terrorism in Europe. Speech presented in 51<sup>st</sup> International Course of Criminology, Warsaw, Poland, Sept. 12- 16, 1995. *Europe 2000. Quarterly Newsletter* , Dec. 1995 (7), 13- 19.
- The Challenge of Crime in a Free Society. A Report by the President`s Commission of Law Enforcement and Administration of Justice* (1968). New York: Avon Books.
- United Nations Development Programme* (UNDP) (1997). Human Development Report 1997. New York: Oxford University Press.
- Tower, k. & Cooper, P. (1995). Beyond Post-Perestroika. Russia and Post-Communism Eastern Europe: The Impact of Individualism and Collectivism on Attitudes to Work, Relationships and Consumer Choice. In *ESOMAR East and*

*Central European Conference Towards Market Economy: Beyond the Point of No Return*, Warsaw, 1995. Amsterdam: Esomar Publications.

Triandis, H. C., McCusker, C. & Hui, C. H. (1990). Multimethod Probes of Individualism and Collectivism. *Journal of Personality and Social Psychology*, 59, 1006-1020.

Walmsley, R. (1996) *Prison Systems in Central and Eastern Europe: Progress, Problems and the International Standards*. HEUNI Publicatin Series No. 29, Helsinki.

Wilson, J.Q. (1975). *Thinking About Crime*. New York: Random House.

Wolfgang, M. E. (Ed.) (1968). *Crime and Culture: Essays in Honor of Thorsten Sellin*. New York, London, Sydney, Toronto: John Wiley & Sons, Inc.

Young, J. (1988). Recent Developments in Criminology. In Haralambos, M. (Ed.), *Developments in Sociology*. London: Causeway Press.

### **Unpublished materials**

Lakes, G. & Grönholm, A.-K. Report, Mai 1997. Nord-Balt Vanglate Projekt. Raport Euroopa Nõukogu Ekspertmissiooni kohta Eesti vanglatesse.

Aruanne Vanglate Ameti tegevusest 1998. aastal. Tallinn, 1999.

Kiviloo, P. & Hilborn, J. Towards 1000 by the Year 2000: From the Soviet Work Colonies to the Development of a Modern Correctional System for the Republic of Estonia. A Policy Paper Prepared for the Ministry of Justice, November the 4<sup>th</sup>, 1993.

Lakes, G. & Taylor, E. Report of a Council of Europe Co-operation Visit to Estonia. August/ September 1993.

Eesti Politsei Arengukava aastateks 1999-2001. Politseiamet, 1999.

Richardson, Launiainen & Röper. Euroopa Nõukogu Õigusdirektoraat. Raport: Eesti politsei organisatsiooni ja ettevalmistuse analüüs. November 1997.

## Appendix

Table 1. The Number of crimes and crime clearance rate in Estonia 1965-1990

Years	The number of crimes	Rate per 100 000 population	Number of cleared crimes	Clearance rate (%)
1965	5122	398.7	4693	91.6

1966	5686	438.3	5360	99.5
1967	5465	417.6	5259	96.7
1968	6147	465.9	5499	91.1
1969	5959	446.6	5595	93.9
1970	6099	448.5	5545	93.2
1971	5909	429.1	5103	94.9
1972	5787	415.6	5072	95.2
1973	5934	422.1	4994	92.4
1974	6034	425.5	5175	91.6
1975	7759	542.8	5971	81.9
1976	7006	486.7	5568	91.5
1977	6796	468.6	5495	93.2
1978	6771	463.7	5668	93.2
1979	8546	582.0	5824	83.8
1980	11 125	753.1	7257	74.0
1981	9314	626.1	7084	92.0
1982	9311	621.4	7288	93.1
1983	15 244	1010.4	8154	61.6
1984	15 437	1016.5	8572	66.2
1985	14 828	969.9	9259	68.5
1986	12 500	811.6	9221	73.3
1987	11 465	738.6	7592	68.3
1988	12 167	779.0	5662	56.3
1989	19 141	1220.2	5829	31.3
1990	23 807	1515.4	5230	23.4

Source: Police Department