

Harm Brouwer, chairman of the Board of prosecutors-general of the Netherlands, about 'Personal protection of prosecution staff', on the occasion of the IAP Regional Conference (Middle East & Asia-Pacific), 16 November 2009, Dubai

Dear IAP-members, mr. president,

First of all I would like to thank the organizers for inviting me to speak at this conference. I am a firm believer in the need for international professional contact and co-operation among public prosecutors. Modern public prosecutors must keep their eyes open to what is happening in the rest of the world. And if we must do so, dear colleagues, why not in Dubai, the most modern of modern cities?

Here In Dubai you see the 21<sup>st</sup> century, wherever you look.

Maybe these futuristic settings explain why today I do not appear before you in the official ceremonial costume that my function would allow me to wear. Let me clarify that. The Dutch Public prosecution service was founded in 1811, at a period in time when the Netherlands were part of the French empire of Napoleon. That French influence is still visible in the legislation on ceremonial clothing for the members of the judiciary. According to law, a public prosecutor has the right to attend public

ceremonies dressed in a long black coat with silver embroidery. On his head a hat with ostrich feathers and to top it all off, a sword with a shiny handle.

I chose not to wear this costume on this trip to Dubai. That is not only because it might cause some difficulty with airport security if I turned up at the gate wearing a sword.

No, it is that I would not dream of wearing such an extravagant costume.

I believe that is also typical of the style of Dutch public prosecutors.

They do their job in court, wearing the traditional black robes, and otherwise they like to keep a low profile. No ostrich feathers or silver embroidery for them.

And definitely no sword on their hips, ceremonial or otherwise. That about sums up their attitude towards personal protection. At least until recently both our prosecutors and the public prosecution service as a whole have given relatively little thought to the theme of 'personal protection'.

The reason for that is obvious. The Netherlands is a fairly quiet, safe country. We do not have for instance organisations that target prosecutors and judges, such as ETA in Spain or the JMB in Bangladesh. Many of our prosecutors are even listed in the phone-book.

However, the Netherlands have recently experienced a few high-profile cases of violence against public figures. In 2003 a well-known right-wing politician – Pim Fortuyn – was murdered by a leftist activist. A year later, the publicist Theo van Gogh was shot by a radical Islamist. These were however isolated incidents by individuals, not operating within a network of kindred spirits. The same goes for the attack on the Dutch royal family this spring, when a frustrated loner tried to ram his car into the coach carrying the royal family during a parade, killing himself and seven spectators in the act.

We still consider ourselves a peaceful nation, but these and other – less lethal - incidents, have caused us to reconsider our relaxed approach on issues of public security. One result of this development is that we now have a comprehensive, nationwide system to deal with security risks concerning public figures. Today I will discuss that system, the kind of measures we take, some difficulties we encounter when carrying out our policy , and finally to close off, I will take a brief look at the international dimension of personal protection.

But first the important question: exactly how big is the security threat for personnel of the Public Prosecution Service in the Netherlands? To evaluate the protection of our own personnel we have among other things

established a central registration desk. As a result we have a pretty clear picture of the size of the problem. The number of annually registered threats presently hovers around thirty. This includes simple verbal threats – a convicted burglar who shouts to the prosecution officer: ‘I know where you live!’ – up to serious criminal intelligence which indicates that hit men are being hired.

The majority of threats falls in the first category. The more serious threats – fortunately no more than a handful a year - are made by two kinds of people. Serious criminals. And seriously disturbed persons.

Alas, this century has already provided us with examples of both kinds. This year a public prosecution officer had to go in hiding with his family, because a crime boss threatened to kill them.

And in the category ‘frustrated individual’, we had in 2003 the suspect of an armed robbery who took the public prosecutor hostage during his trial. Our colleague got shot during that incident, but fortunately survived.

Can we discern a trend when looking at these figures and examples? The situation seems to be quite stable. This applies certainly to the serious threats of which there are few.

To summarize, there is no need for our staff to feel that they are living under a constant threat that something might happen to them or to their

family. However, sometimes we are confronted with signs and threats that must be taken very seriously.

Before I go into the way we have organized our response to specific security threats, I must stress the importance of preventive measures.

There clearly can be risks involved in our line of work, especially when prosecuting organized crime networks.

There is no standard set of measures for **all** prosecutors. That would not be necessary, considering our relatively low level of threat. Only the highest ranking prosecutors and those with access to the most sensitive information get a standard set of measures. These consist mostly of security measures in and around the prosecutor's home.

Now, how does the Dutch public prosecution service handle threats against its staff? What are the premises of our policy? And what measures do we take?

First of all, it is important to note that our procedures do not distinguish between threats against prosecution staff and other citizens. Prosecution staff and citizens have access to exactly the same security measures. In all cases the chief prosecutor of the area where the threatened person is living, is responsible for the safety of the person involved. He decides –

in close co-operation with the local police – which measures provide the best guarantee against a possible assault.

Another basic principle of our government policy on safety is that citizens themselves carry the prime responsibility to safeguard their life, health and property. For help, they should look first at their personal and professional networks. Only when threats against their safety appear to take a violent form, can they expect additional, protective measures from the authorities.

This implies that the public prosecution service has an extra responsibility when members of its own staff are threatened. As an employer we provide special attention and measures to staff members under threat. Since 2005 we have a specific policy to this end. Our goal is to act upon any threat that is reported.

Our philosophy regarding security threats is that our response must be able to be stepped up from zero to a hundred percent as fast as possible. In other words: in the regular situation a prosecutor gets no security measures. But as soon as there is a threat, the system guarantees that adequate security measures can be taken very quickly. That takes place on the basis of a solid analysis of the threat, and on the basis of expert

advice on the types of measures to be taken. In order to guarantee this, we invest in capacity and knowledge with regards to threat-analysis. We ensure that we have access to all the right information on the basis of which we can do these analyses.

Because this is the hardest part: In scientific literature on attacks on public figures a distinction is made between the hunters and the howlers. The howlers typically keep their distance and are content to make their threats. Their bark is worse than their bite. With the hunters however, it is the other way around. But how to know whether you are dealing with a hunter or a howler? How to judge whether a threat is serious or not? And how to make sure we don't take far-reaching, often costly measures for no reason? In the Netherlands, it is the Dutch police force, together with the intelligence agencies, who is responsible for these threat analyses. Each Dutch police region has a desk with experts who analyse threats on their severity, and on the likelihood that they will materialize.

At its national level the Dutch police force maintains a database that makes available to the regional threat analysts all information that is available within the entire police force. This database is also used to make more general analyses of trends with on threats and security issues. Once the threat and – if known – the person making the threat - have been analyzed, it is time for action. What measures can help to diminish the

threat? That's up to the chief prosecutor to decide, on the advice of the police. As these are difficult decisions to take, sometimes with far-reaching consequences, every chief prosecutor has his own security advisor to advise him on these matters. Our security advisors discuss the outcome of the threat analyses, possible security measures and the implications of these measures with the specialised bureau that exists within each regional police force. Once they have figured out the best way to translate a threat into concrete security measures, the chief prosecutor decides which way to proceed.

What kind of measures might be taken?

One could for instance start with mobile surveillance, which means that a police car will drive by the residence or the office of the threatened person regularly. Often, a fixed contact within the police force is assigned to the threatened person, so he can be assured of a direct link with a police officer who knows his case. Furthermore, his telephone can be tapped to track down threats made by phone. And when things really heat up, then the chief prosecutor can decide to involve a special police unit that normally provides *close-protection officers* to members of the royal family and the *corps diplomatique*.



All these measures are available to all Dutch citizens. But as I mentioned earlier, the public prosecution service holds a special responsibility as an employer, when prosecution personnel is being threatened. If the threats are made over a longer period, the residence and the office of the prosecutor involved can be adjusted. Think of bulletproof windows, a burglar alarm, a panic button, cameras or a panic room. If needed, we can also provide individual counselling and psychological coaching to the prosecutor and his family.

That was in brief the method we have set up to protect our prosecution staff, both preventively and in response to actual threats. So far, we are quite satisfied about the way in which this system functions. However, there are always practical difficulties to overcome. Two of those are limited police capacity and personal involvement of the prosecutor under threat.

The most practical of practical problems is limited police capacity. As in any country, the Dutch police force has a wide variety of tasks to perform. Protecting prosecutors is just one of them and not one they deal with daily. In other words, it is not a task for which the police labels capacity beforehand. So when the need occurs, capacity must be drawn from the general reserves which - most often – are already stretched.

Mobilizing these reserves might sometimes prove difficult. Keeping them mobilized for a longer time may be an even harder challenge. It would not be a first for threatened persons to find out that the police surveillance has suddenly stopped. Without notification, that is. Of course, this is not the way to do it. To prevent this from happening, we try to set beforehand regular moments at which the police and the chief prosecutor discuss whether or not to continue the police effort.

Another experience is that, when it comes to protecting staff members, it is hard to do the right thing. I don't know about other prosecution services, but our average prosecution officer is someone with a hands-on mentality who is very used to dealing with his own problems. That may lead to two contrary consequences.

The first is that the prosecutor in question might be too eager to determine any decisions concerning his own protection. Such personal involvement is quite understandable, but it makes the decision-making process more emotional or subjective than it should be. Our policy therefore is that we use any information the threatened prosecutor may provide on the nature of the threat, but he or she gets, no say in the final decision what measures will be taken.

The reverse possibility – and that happens more frequently – is that a prosecutor underestimates a threat aimed at him. He shrugs his shoulders and wants to get back to work as if nothing is the matter.

In that case persistence is needed to convince prosecutors of the necessity of protective measures. Both examples - the prosecutor who gets too involved in his own protection and the one who wants to waive the threat away - demonstrate how important it is that the chief prosecutor shows his personal commitment to staff safety. Especially the impact of protective measures on someone's private life should be a permanent point of interest to chief prosecutors.

Finally I would like to say a few words on the international dimension of the subject. After all, We are at an IAP conference.

First and foremost I would like to observe that international co-operation for the protection of prosecution staff is virtually a *terra incognita*. There is little exchange of information on the subject. Not only when it comes to concrete cases but also about protective policies in general.

This international dimension becomes critical when a protected prosecutor has to pay a visit to another country. Naturally, the receiving country does not allow foreign police officers to act as bodyguards within its territory. So the visiting prosecutor has to rely on the protection that

his hosts can offer. The effectiveness of this protection highly depends on the information that the home country of the prosecutor is willing to share.

As long as such visits remain scarce, the risks of insufficient protection abroad might be offset by the risk involved in the sharing of information. But in a globalizing world, one can predict that the international contacts between prosecutors will intensify. So the question is not if, but when closer international co-operation for the protection of prosecution staff will become necessary.

In fact I would like to suggest that a section expressing the importance of international co-operation and exchange of information is added to the 'Standards for Protection and Security of Prosecutors'. As you know these Standards were introduced in Finland last year by our very own IAP. as part of its 'Declaration on minimum standards concerning the security and protection of public prosecutors and their families.' This declaration served to remind the states represented in the IAP of the obligation they have with regard to the safety of their prosecutors . The declaration can be used as a valuable check-list. Do we meet all fourteen standards? I think we do in the Netherlands, but only recently so. And since these are minimum standards, there is always room for improvement.

I come to my conclusion.

In the IAP-declaration it is stated that ‘prosecutors should be entitled together with their families to be physically protected by the authorities when their personal safety is threatened as a result of the proper discharge of their prosecutorial functions’. I wholeheartedly agree. We have a duty to our staff, but also to the societies we represent, to see to it that public prosecutors can work and live safely.

In order to achieve that goal, protection of public prosecution staff should be an integral part of any prosecution service. Both as employers and as representatives of the rule of law we must demonstrate our commitment.

The measures we have chosen in the Netherlands may seem relatively light to some of you. As I said, in the Netherlands there are relatively few serious threats made against prosecution personnel. However, this is no reason to underplay the importance of the subject. What matters is that we have tried to set up a system that makes possible a rational and adequate response to all threats our staff are confronted with.

And to illustrate that even in those quiet Netherlands crime may rear its ugly head, I end with the tale of Piet-Hein Donner, a former Dutch minister of Justice. As many Dutchmen like to do, mister Donner rode to work on his bicycle. His appointment as minister of Justice did not

change that. The only change was that the huge pile of files he had to study at night were driven to his home by a chauffeur. Even the 911-attacks or the murder of Pim Fortuyn could not refrain minister Donner from riding his bike. However, for security reasons he was from then on accompanied by two armed bodyguards. On bicycles, of course.

Mister Donner is now no longer minister of Justice. Never did he encounter any security difficulties during the hundreds of bicycle trips he must have made as minister of Justice. However, he still fell victim to a heartless crime. Once his bicycle was stolen. And not just anywhere, no from the guarded parking space inside the ministry of Justice.

This cautionary tale goes to show that, when it comes to security issues, one must never be overconfident.

Thank you for your attention.