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## **Ethics on the radar: exploring the relevance of ethics support in counterterrorism**

Kowalski, M.

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**Author:** Kowalski, M.

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### **III. Empirical part**



## **6. Dealing with ethical issues by counterterrorism professionals**

Ethical issues are present in the practice of counterterrorism (Van Gunsteren, 2014; Van Den Herik and Schrijver, 2013; Reding et al., 2013; Wellman, 2013). Efforts to map some of these issues have led to a preliminary typology of ethical issues, as presented in the previous chapter. The presence of ethical issues in the field of counterterrorism and the (political) urgency of counterterrorism in Western societies raise the question how counterterrorism professionals are dealing with those ethical issues in general and with concrete ethical dilemmas in particular. The research question of this chapter therefore asks: How are counterterrorism professionals in the Netherlands dealing with ethical dilemmas?

The findings of this chapter derive from semi-structured interviews with counterterrorism professionals from the Office of Dutch National Coordinator for Counterterrorism. The research methodology, limitations and research ethics have been described in Chapter 2. The methodology section of that chapter has clarified the importance of a relatively small number of participants in an empirical research on the practice of counterterrorism, given the limited accessibility of the often secret practice of counterterrorism. Having the semi-structured interviews with professionals from the Office of Dutch National Coordinator for Counterterrorism prior to the moral case deliberations can help to develop an understanding of the context they are working in. In addition, in order to understand the context of the research it is useful to learn how those professionals are handling ethical issues before delving into the moral case deliberations themselves in Chapter 8.

This chapter will first examine the background of the Dutch National Coordinator for Counterterrorism and Security in which the interviews and the moral case deliberations took place. This is important in order to understand the character of the organization that forms the core of the empirical part of this thesis. A closer look at the broader field in which the organization operates – like the wider international counterterrorism coordination community – can help to better understand the context of the empirical focus of this part of the thesis. Afterwards, the findings of the semi-structured interviews will be presented and, finally, an analysis of the findings will be provided. This analysis will help

clarifying ways in which counterterrorism professionals are dealing with ethical dilemmas. Indirectly, this thesis offers further insights into the backgrounds of counterterrorism professionals and the characteristics of their work. This can be interesting from an anthropological and sociological point of view and can generate a better understanding of the closed realms of the practice of counterterrorism. The importance of a thorough understanding of the moral working of state institutions has been claimed regarding other areas of governmental work, such as policing (Fassin, 2015: 93).

## 6.1 Context of study

The Dutch National Coordinator for Counterterrorism and Security has existed since November 2004. Due to the establishment of comparable institutions around the world, it has become part of what can be considered as the international counterterrorism coordination community (Persson, 2013). Chapter 2 already laid out how and why this thesis focuses on the National Coordinator for Counterterrorism and Security and not, for example, an intelligence service. Here, the rise of the National Coordinator for Counterterrorism and Security, its major responsibilities and organizational characteristics will be explained.

### **National Coordinator for Counterterrorism**

On 1 November 2004, the Dutch National Coordinator for Counterterrorism was established. On that day, it was only the Coordinator himself and a few civil servants who began building up the organization. A day later, on 2 November 2004, the terrorist Mohammed Bouyeri killed filmmaker and publicist Theo van Gogh in the streets of Amsterdam. Clearly, the Coordinator and his staff were not prepared to prevent this attack. Closer research has been conducted on the issue of whether other actions could have prevented this attack (CTIVD, 2008). The political momentum to set up the institution of the Coordinator was triggered by the attacks in Madrid that took place on 11 March 2004. While the attacks of 11 September 2001 in the United States seemed far away enough to avoid changing the institutional architecture of counterterrorism in the Netherlands, 'Madrid' was a game changer. First of all, Madrid was geographically closer to the Netherlands. In combination with the previous experiences in the United States (9/11), the political urgency to act was growing. Second, the terrorist threat in Spain was quite similar to the terrorist threat in the Netherlands. This fact contributed to the fear that what had happened in Spain could happen in the Netherlands as well. Third, many professionals and specialized politicians in the Netherlands already shared the impression that the coordination of counterterrorism activities within the Netherlands needed significant support. This was partly due to the fact that the number of actors obtaining or claiming a role in counterterrorism was growing. Before the jihadist wave of terrorist activity in that period, the General Intelligence and Security Service held more or less a monopoly in this field. In the period prior to the establishment of the National Coordinator for Counterterrorism, more than twenty governmental

actors were in some way involved in counterterrorism. However, there was no actor assigned or positioned to coordinate all those different activities (Minister of Justice, 2003).

The first counterterrorism coordinator Tjibbe Joustra started as National Coordinator for Counterterrorism, with an abbreviation of its Dutch name NCTb. From 2004-2013 the major organizational architecture was designed as follows: The work of an analysis and expertise department was considered as the point of departure for all activities of the Coordinator's office. Based on analyses like the all source threat assessment (Abels and De Roy van Zuijdewijn, 2017), a policy and strategy department designed policies to counter identified threats. Subsequently, it was up to an implementation and project management department to make sure that major policy programmes were implemented successfully. Beside the circle of analysis, policy and implementation, an additional task was added to the Coordinator's responsibilities: the development of a protection and surveillance department, as well as a department on civil aviation security. Particularly in the early years of this period, the Coordinator was considered both powerful and effective. This can be illustrated by the concern, often expressed in the political debate at that time, that the National Coordinator for Counterterrorism might become the third intelligence service of the Netherlands (de Volkskrant, 2006). The analytical unit of the National Coordinator for Counterterrorism did not comprise of more than 25 staff members at this time. One of the core tasks of this unit was the assessment of the terrorist threat to the Netherlands (Bakker and De Roy van Zuijdewijn, 2015). In this period, the National Coordinator for Counterterrorism reported to both the Minister of Justice and the Minister of Interior and Kingdom Relations. Since the Minister of Justice was assigned as coordinating minister in the field of counterterrorism, the staff of the National Coordinator for Counterterrorism was positioned administratively under the Ministry of Justice. Within the rather decentralized Dutch bureaucracy, the National Coordinator for Counterterrorism has been considered as un-Dutch due to its powerful and centralized position (Olgun, 2006).



## **National Coordinator for Counterterrorism and Security**

In 2013, the Coordinator broadened its focus to include national security, crisis coordination and cybersecurity into its responsibilities, changing its name to the National Coordinator for Counterterrorism and Security accordingly. Its new abbreviation, based on its Dutch name, is NCTV. This change mirrored the political developments of the time, in which a minority government supported by the Party for Freedom took a special interest in security issues. Not only did this lead to the transformation of the Ministry of Justice into the Ministry of Security of Justice, it also implied that the politically shared responsibility regarding the Counterterrorism Coordinator was altered. From now on, the Coordinator reported exclusively to the Minister of Security and Justice; the political line with the Minister of Interior was cut. The new organization was underlain by the principle of risk assessment, which is often expressed through the triangle of interests, threats and resilience. Consequently, the National Coordinator for Counterterrorism and Security had, first, a department on surveillance, protection, and civil aviation security, second, a department looking into threats and risks and, third, a department responsible for resilience in a broader sense. In addition to the architecture following the "risk triangle", there was also a department for cybersecurity, combining all functionalities into one department that have been separated regarding counterterrorism and national security along the lines of the "risk triangle".

When the situation in Syria escalated and the threat level was raised in 2013, an additional department on counterterrorism was established, in which the counterterrorism tasks of the resilience department were integrated. The continuous growth in both tasks and staff for the Coordinator nurtured a need for internal coordination, in addition to the main task of external coordination. In 2017, a principal decision was taken to concentrate the tasks of the Coordinator and downsize the staff accordingly. Counterterrorism is one of the core tasks that remains within the Coordinator's responsibility.

## **Counterterrorism professionals**

Before turning to the findings, I will provide some more information about the background of the counterterrorism practitioners at stake. Who are they, what kind of work are they doing and how can their work culture be described? The

counterterrorism professionals who are the source of the findings here work in different areas of counterterrorism: analysis, policymaking, policy implementation, policy coordination, policy accountability, national and international cooperation, protection and surveillance. The involved professionals cover wide parts of the practice of counterterrorism. They assess threats, they conceptualize policies to counter the threats, and they coordinate efforts to implement those policies. Furthermore, they are responsible for providing accountability regarding the counterterrorism policies towards parliament. Finally, they are also involved in strengthening national and international cooperation and exchange of information and managing the protection and surveillance of potentially threatened persons and institutions. The large variety of professional activities included in the practice of counterterrorism offers the opportunity to include multiple perspectives of this practice into this research.

The practical work situation and the resulting work culture are worth explaining as well when introducing the practice of counterterrorism. To start with, the involved professionals have the most sensitive security clearance for government officials, the so-called A+ screening. This screening allows for the handling of all state secrets, including top secret documents, briefings and discussions. In order to qualify for this clearance, the professionals are screened every five years by the General Intelligence and Security Service. The workplace of the officials is considered as a "secret place" according to the law on state secrets and is only accessible to employees holding the highest security clearance. To enter the workplace the professionals have to scan their personal pass with an electronic entrance system and complete this process by presenting physical biometric evidence to the entrance system. Within the office the entire procedure, or parts of it depending on the location of the professional, has to be repeated upon moving to another part of the office. The physical work environment nurtures potentially a work culture of secrecy, exclusion and perhaps even some form of elitism.

With the growth of the Coordinator's office in 2013 due to the increase of responsibilities, staff members from different organizations were merged into one office. This led to a certain fragmentation of the organizational culture. The

growth of staff in the field of counterterrorism from 2014 onwards led to an influx of many young and inexperienced staff members. The attached dynamic and enthusiasm was, to a large extent, counterbalanced by the need for qualification and an ever growing need for greater internal coordination. Last but not least, it is important to mention the openness towards ethical reflection within the organization. As previously described, this openness came up quite early in the existence of the organization and endured at least as long as the period covered by the moral case deliberation in this thesis, 2016. The personal commitment to moral case deliberation from the top leadership differed throughout these years.

## Presentation of National Coordinator for Counterterrorism and Security

"The National Coordinator for Counterterrorism and Security protects the Netherlands from threats that could disrupt Dutch society. Together with the partners within the government, the research community and the private sector, the National Coordinator for Counterterrorism and Security ensures that the Netherlands' critical infrastructure is safe and remains that way. Since the establishment of the National Coordinator for Counterterrorism and Security, central government has had a single organisation that deals with counterterrorism, cyber security, national security and crisis management. Together with our partners in the security sector, the National Coordinator for Counterterrorism and Security is committed to making the Netherlands a safe and stable place. The focus is on preventing and minimising social disruption.

What does the National Coordinator for Counterterrorism and Security do?

"The National Coordinator for Counterterrorism and Security main tasks are:

- analyzing and reducing identified threats
- providing surveillance and protection for persons, property, services, events and vital sectors
- ensuring cyber security
- making property, individuals, sectors and networks more resistant to threats
- ensuring effective crisis management and crisis communication.

Combining these tasks into a single organisation makes the government more effective in these areas. The National Coordinator for Counterterrorism and Security and its staff fall under the responsibility of the Minister of Security and Justice. For management and organisational purposes, the National Coordinator for Counterterrorism and Security comes under the aegis of the Ministry of Security and Justice, functioning in a similar way to a directorate-general.

### Tasks

- analyzing and reducing identified threats;
- providing surveillance and protection for persons, property, services and events, as well as for vital sectors;
- expanding and strengthening cyber security;
- making property, persons, structures and networks more resistant to threats;
- ensuring effective crisis management and crisis communication.

### Mission

The National Coordinator for Counterterrorism and Security helps keep the Netherlands safe and stable by identifying threats and strengthening the resilience and security of vital interests. Its ultimate purpose is to prevent and minimise social disruption."

<https://english.National.Coordinator.for.Counterterrorism.and.Security.nl/organisation/>,  
retrieved 24.07.2017

## 6.2 Findings from interviews

In this section the findings that emerge from the interviews will be presented. The presentation of the findings follows the structure of the semi-structured interviews and is subdivided into two parts. First, the way in which counterterrorism professionals are dealing with ethical dilemmas will be characterized. Second, the institutional arrangements and training possibilities to deal with ethical issues in the practice of counterterrorism as presented in the interviews will be sketched.

As a general finding, it can be determined that counterterrorism professionals are indeed facing ethical dilemmas in their work. All nine interviewed practitioners say that they face ethical dilemmas in their work. Seven of the nine interviewees are facing ethical dilemmas on a regular basis.

*"There are quite a lot of dilemmas I am facing during my work. They change in nature and intensity but they are absolutely present in my daily work" (interview 6).*

One of the interviewees is even facing ethical dilemmas very frequently. One other interviewee is facing ethical dilemmas only from time to time. The responses regarding the ethical dilemmas can be subdivided into five different types. Those types have not been predefined before the interviews took place and rather arise from an analysis of the responses.

### **Type of dilemmas**

#### **Information sharing**

The first type of dilemma can be summarized under the header of information sharing. It turns out that there are often situations in which the question of whether or not to share certain information, and to whom, poses ethical dilemmas. The issue of information sharing was quite frequently mentioned as an ethical issue (interview 1, 4, 5, 7). The ethical dimension of the issue of information sharing has at least three layers focussing on the pros and cons of sharing information. First, sharing certain information can prevent or reduce the manifestation of a certain threat. As many individuals might benefit from a prevented or reduced threat, the pressure to share information for the sake of

potential innocent individuals is rather high. These ethical tensions can pressure counterterrorism professionals to share as much information as possible. Information sharing can, second, also put individuals at risk. The sharing of information can put the liberties or physical integrity of those individuals mentioned at risk. It is worth noting that the information shared within the practice of counterterrorism often involves intelligence that is by nature not fully confirmed at the moment of sharing.

Last but not least, the professionals involved in the sharing of information can be exposed to sanctions, as the legal arrangements of the practice in which they have to share information can, for example, be either unclear or not designed to deal with those issues. Besides the professionals themselves, the democratic legal order can also come under pressure. An example mentioned by three respondents (interview 1, 7, 8) is the instrument of local case consultations that are at the core of dealing with Dutch foreign terrorist fighters. The local case consultations were installed after the rise of youngsters joining the jihad in Syria and Iraq from 2013 onward. As the name of the meetings suggests, the local municipalities were in charge of organizing a meeting in which tailor-made measurements regarding inhabitants from their cities who travelled to Syria and Iraq had to be developed.

*"It seems that large parts of the local approach are taking place – at least in the eyes of many actors - in a grey area in which it is unclear who is allowed to share what with whom" (interview 1).*

Those meetings include many partners from outside traditional national security circles, with different backgrounds, levels of experience in dealing with confidential information, etc.<sup>4</sup>

### **Independent reporting**

The second type of dilemma is related to what can be summarized as independence of reporting. This type refers to a form of reporting that is objective, neutral and free from political interference. This issue has been brought up quite frequently (interview 2, 4, 7, 9) with regard to different

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<sup>4</sup> In July 2017 a default covenant has been provided by the national authorities to municipalities that allows for the governance of the exchange of information. See: NCTV, 2017.

settings. One example is the independence of counterterrorism analysis which is first and foremost at stake regarding matters that are considered as politically sensitive. As a concrete example, the analysis about the relationship between the influx of refugees and terrorism has been mentioned. The concern here is as follows: Terrorism analysis is most of the time about small numbers of a broader group, as terrorist attacks are mostly prepared and committed by a very limited number of actors. When the influx of refugees occurred, the risk of having terrorists among the refugees was considered as unlikely and not proven yet because there were no signs of terrorist suspects among the refugees on a large scale. However, terrorism is not about large scale participation. So the issue arose whether the occurrence of a small number of potential terrorists as part of the influx of refugees had been ultimately assessed differently than in normal terrorism analysis. The ethical question here is whether it is justified to apply different standards of threat analysis in order to avoid political sensitivities.

Related to the issue of independence of analysis there has also been made a more subtle observation that addressed intergroup processes as an influencer on the final version of the analysis:

*"How do hierarchical lines run? How are discussions concluded or not? To what extent do naked facts matter in the end? You cannot be just a little bit objective" (interview 2).*

These observations raise indirectly the question of how much courage is needed to stand up in a group discussion on true analytical conclusions within a context that is permeated by both visible and hidden power relations.

This contribution expresses the experience that in decisive group discussions about draft analyses not only arguments or facts matter. The way in which a discussion is led or the extent to which participants of a meeting are in the position to actively participate can influence the outcome of the discussion about an analysis. This is also true for the manner in which a discussion is concluded and by whom. Last but not least, it can also be decisive whether there is any critical internal discussion about draft analyses at all.

Another example related to the issue of independent reporting touched the briefing of parliament. In the field of counterterrorism the Dutch parliament has been informed periodically about the progress of counterterrorism efforts. In the aftermath of terrorist attacks in other Western countries there was also an additional need for information expressed by parliament. Obviously, the state of affairs in the field of counterterrorism has to be reported to parliament as faithfully and realistically as possible. Nevertheless, two of the respondents indicated that they were wondering more than once whether the situation regarding the progress of a certain policy initiative was not presented too optimistically, as an outcome of some kind of bargained communication between different departments and ministries. The ethical question is at what stage of blurred reporting on the state of policy progress it is morally necessary to speak up and adjust the reporting.

*"Sometimes the final result of a letter to parliament felt nearly like lying. Luckily this is much less the case in recent times. But this whole tension remains an issue" (interview 7).*

Those concerns indicate that the societal and parliamentary trust in the government in general, and the specific governmental measurements in particular, can be at stake. The potential ethical dimensions in such a case range from the ethical tension at an individual or professional level up to consequences for the democratic society as a whole.

### **Navigating legal boundaries**

The third type of dilemma expresses the ethical tensions that are attached to navigation along and across legal boundaries. Adapting to new threats for example can go hand-in-hand with navigating the fringes or crossroads of legal boundaries. It can also imply to navigate legal space without specific provisions regarding certain concrete threats. These encounters with law can take place before lawmakers become aware of a specific threat or before they are able to update existing laws or establish new laws (interviews 1, 4, 9). This can imply that counterterrorism professionals might have to be pioneers in new threat situations. They might also be confronted with new constellations of national and international cooperation.



*"In those cases you just cannot avoid exploring and sometimes maybe even crossing the legal boundaries, if they exist at all" (interview 4).*

The manifestation of those tensions can imply an undermining of the legal democratic legitimization of certain actions of the state. Such an action would take place, however, based on the intention to serve the national security of the state as practical and prompt as seems appropriate in certain circumstances. An example has already been put forward of the above mentioned case consultation approach, in which new forms of national cooperation emerged. The dealing with personal data in the field of policy implementation regarding potential jihadists was mentioned as an example as well. The latter ranges from consequences of being part of the case consultation approach up to documenting and reporting activities in the field of social media monitoring.

### **Impact of policies and measures**

The fourth type of dilemma touches ethical tensions that occur as the impact of policies and measures unfolds. Counterterrorism practices are like many other practices based on the development and implementation of policies and measures. The impact of those policies and measures has been mentioned as a potential ethical issue (interview 3, 6 and 8). Such issues can appear in different forms. One example reflects on policies that have a strong performative impact on society but are considered by professionals at best symbolic if not counterproductive.

*"What this measure is aiming at, can also be realized based on other grounds. Nevertheless, a lot of scarce resources have to be devoted to this measurement in order to show that it works" (interview 7).*

The obligation to loyally implement rather symbolic policies can conflict with the professional values to do what is most useful to counter terrorism instead.

Another example that has been mentioned arose during the process of the implementation of the policies and measures in which not all partners are developing at the same pace.

*"It is difficult to act in those situations. You are very much aware of the fact that you are just a tiny part in a larger machinery. The most important thing to do in those situations is to get people into motion" (interview 3).*

The ethical tension in this example reached its climax when it seemed that structural shortcomings of at least one of the partners within the counterterrorism community did constitute a severe limitation for the success of a specific policy goal. When are counterterrorism professionals obliged to speak up about those shortcomings? Are they obliged to assess and address larger systemic failures as a result, with potentially severe consequences?

The dealing with perceived inconsistent or unwise policies has been brought forward regarding the impact of policies or measurements as well. One example is a situation in which certain relevant tasks are - due to limited capacities - temporarily put on hold. Another example concerns developments that could expose vulnerable groups in society to avoidable negative side effects of measurements. This can raise the following ethical questions: According to which criteria do counterterrorism professionals have to speak up when facing such policies or even to refuse to execute those policies? Or to put it differently: to what extent must counterterrorism professionals be heard or consulted when designing counterterrorism policies? What is the value and position of practical wisdom (*phronesis*) as far as the conceptualization and implementation of counterterrorism practices are concerned?

### **Working in the field of counterterrorism**

Last but not least, it seems that working within the field of counterterrorism raises ethical issues in itself (interview 5, 8). A striking example in this case is the following:

*"I knew about a certain concrete threat against a concrete target where my partner was supposed to be next week as well. Do I have to tell her?" (interview 8).*

Such a situation highlights the potential tension between maintaining the confidentiality of professional information on the one hand and caring for one's family or oneself on the other hand.

Another dimension of being employed in the field of counterterrorism concerns the issue of secrecy. Respondents struggle with the extent they can be open about their work with their family and friends as part of fostering honest and authentic personal relations. Such an attitude can conflict with professional standards to be upheld although. However, it has to be mentioned that the interviewees perceived the guidelines and instructions about dealing with their secret position as rather vague when compared with the guidelines and instructions available inside intelligence services. Besides the professional values there can also be personal values at stake. Being too open about work could undermine not only the interests of the employer. It could also harm the security of the professional in question or the security of his or her family.

How counterterrorism professionals will deal with those issues will be dealt with next.

### **Way of dealing with ethical issues**

This section will provide some clarification about the ways in which counterterrorism professionals are dealing with ethical issues. Based on an explorative analysis of the responses, it appears that there are four ways of dealing with ethical issues to be distinguished: reaching out to colleagues, addressing leaders, consulting a mentor, or initiating a dialogue within oneself.

First, colleagues (either one or more) were most frequently mentioned as partners in deliberation on ethical issues. Eight of nine interviewees stated that they reach out to colleagues if they are facing ethical issues (interview 1, 2, 3, 4, 5, 6, 7, 8). Three of those eight interviewees stressed that they prefer to connect with colleagues who are neither part of the ethical issue at stake nor belong to the same organizational unit.

*"I would definitely turn towards colleagues that I do trust. In sensitive cases it might be wise to turn towards colleagues working at other departments" (interview 7).*

The citation seems to reflect a certain need for a secure and independent environment in which ethical issues can be discussed.

Reaching out for a dialogue with a colleague, however, does not automatically imply an open dialogue within a group of colleagues. As one respondent put it:

*"I am still unsure whether I should address such an issue in a group discussion. Messengers are easily dishonoured. If I would do so, I would have to be quite sure about the absence of the abuse of power within the group" (interview 2).*

These concerns about the conditions for a true dialogue with a group of colleagues underline that there is a need for some basic safeguards before entering a dialogue about ethical issues with colleagues.

Second, team leaders were mentioned by five interviewees as a point of reference when ethical issues occur (interview 4, 5, 6, 7). The experiences with discussing ethical dilemmas with representatives of the leadership, however, have not been unequivocal. Two interviewees feel very happy about addressing ethical issues with their leadership. As one has put it:

*"Luckily, I always had a great dialogue with my superiors when needed" (interview 4).*

Two other respondents, however, are less positive about their experiences with their leaders. One respondent stresses that if the interests at stake may be very important and would include for example political interests, it is unlikely that those functionaries could be of use in dealing with ethical dilemmas. Another respondent mentions that higher management in general is often not seen as an example of ethical leadership.

*"Leadership here, as elsewhere in government, is no moral leadership. But it should be. Unfortunately, this is not the way in which leaders are selected" (interview 1).*

The third way of dealing with dilemmas is consulting a mentor. Three interviewees mentioned consulting someone based on his or her perceived

wisdom, regardless of the official function or status of the person in question (interview 1, 8, 9). This was considered as especially valuable, since being considered as someone who gives wise advice based on professional experience and a high quality of judgement ('mentor) is considered as necessary when addressing an ethical issue.

Last but not least, the professionals themselves seem to be relevant. Two interviewees mentioned the importance of the self in addressing ethical questions explicitly (interview 1, 9).

*"Eventually you need to sort things out in an internal dialogue with yourself. Ideally you build and constantly adjust your own ethical compass" (interview 9).*

As conditions for a fruitful internal dialogue, sufficient time and distance (in the sense of having space for reflection outside the heat of the moment) were mentioned.

The next section will address the extent to which professionals are trained and prepared to deal with ethical dilemmas.

### **Institutional arrangements and training**

This section will explore what kind of institutional arrangements and training facilities are in place to prepare and qualify counterterrorism professionals in dealing with ethical dilemmas according to the respondents. In the semi-structured interviews it has been asked what institutional mechanisms or training opportunities counterterrorism professionals have at their disposal in dealing with ethical issues. In addition, it has been asked what they would recommend to the practice of counterterrorism in general and their employer in particular.

The impressions gained on mechanisms or institutional arrangements dealing with ethical dilemmas is quite clear: none of the respondents are aware of any mechanism or arrangement that are specifically dedicated to the handling of ethical dilemmas. Regarding training opportunities within the organization, the picture is comparable: none of the respondents are aware of any structural

training available specifically focussing on how to deal with ethical issues. On an incidental basis, however, three respondents joined a pilot moral case deliberation organized by the author in the past, or a module on ethics and counterterrorism within a course for practitioners organized by Leiden University on request of the Dutch National Coordinator for Counterterrorism and Security.

Two respondents did follow ethics training with another organization such as defence or professional academic teaching before joining the National Coordinator for Counterterrorism and Security. Several respondents mentioned that it would be useful to have such training, given the dilemmas present in their daily work or in the light of the high number of incoming new employees to the field just before and during the research period in 2016.

### **Time for reflection, confidence and ethical clarity**

Under the umbrella of other suggestions, three interesting observations were shared as well. The first one was related to time. Time for reflection and communication was suggested as necessary for dealing with ethical issues. It was mentioned that, though it sounds banal, it is still difficult to realize and to find rest during the daily routine. The second suggestion refers to confidence required among colleagues, but especially towards the leaders. The leaders often set the stage as a role model and can therefore shape an environment that is conducive (or hindering) to an open and trustful dialogue about ethical tensions within the practice of counterterrorism. Last but not least, it was questioned whether it is always perfectly clear, even to those talking about ethical dilemmas, what an ethical dilemma is compared to an urgent practical dilemma. Clarity on that point was suggested to be necessary when talking about issues in general and when talking about how to handle particular issues.

### **6.3 Reflection on findings and discussion**

In this section the analysis of the findings of the semi-structured interviews will be presented and discussed. This leads to the following general observations that are subject to the general limitations of this research.

#### **Occurrence of ethical dilemmas**

First, it seems to be quite clear that ethical dilemmas occur within the practice of counterterrorism. This observation supports earlier conclusions based on literature research. The findings based on the interviews also suggest that the occurrence of ethical dilemmas in the practice of counterterrorism is rather common within democracies. Primarily reasons for that are rooted in the fact that the practice of counterterrorism implies – partly by applying methods of intelligence services - the inherent infringement on civil liberties for the sake of the right to live. This context inherently constitutes intense ethical tensions, as they touch on the fundamentals of the democratic legal order (Van Den Herik and Schrijver, 2013; Wellman, 2013).

#### **Lack of institutionalization of ethics policies within counterterrorism**

Second, there is little attention devoted to dealing with ethical dilemmas as far as institutionalized ethics support is concerned. This situation seems to fit with a broader assessment regarding ethics within the public sector, where integrity issues have garnered a great deal of attention. Mostly, however, mechanisms to uphold integrity concentrate on the observance of (legal) compliance.

In a European study exploring the effectiveness of good governance and ethics in public administration, it has been argued that ethics policies are not taken seriously as far as their practical implementation is concerned (Demmke and Moilanen, 2011: 124) and that there is “a gap between political and media activism and the effective institutionalization of ethics policies” (Demmke and Moilanen, 2011: 16). At the same time, it would be an illusion to consider one instrument alone as “sufficient to create an honest civil service and ethical civil servants” (Demmke and Moilanen, 2011: 20). In the field of counterterrorism there are no findings from empirical studies on the institutionalization of ethics policies within the public sector as of yet.

At least in the Netherlands, there are, besides an institutional apparatus to maintain integrity in a more narrow and compliance-based sense, also initiatives to develop ethical judgement capacities in a value-based sense or to apply ethics in daily work practices (Delnoj et al., 2006; Kessels, 1997). The value-based initiatives imply a central interest in the values at stake and at work, and can be considered as a form of ethics support. The field of counterterrorism has not yet experienced institutionalized ethics support and can therefore still be considered as lagging behind developments in other areas (Overeem, 2017; Kowalski and Meeder, 2011). This lagging behind offers the opportunity to learn from the experiences in other parts of the public sector where a strong and at the same time less fruitful focus on compliance and regulation has been observed. These lessons suggest that a more value-oriented approach stressing prevention, awareness and institutionalization would be appropriate to be applied in the field of counterterrorism (Overeem, 2017: 30).

### **Reflection of typology of ethical issues**

Third, the types of dilemmas emanating from the interviews seem to fit within the conceptualization of the typology of ethical issues in the practice of counterterrorism. Although the input from the interviews itself would not be detailed enough to confirm in detail the typology suggested in Chapter 6, the findings from the interviews support the differentiation within the typology between structural, political, professional and personal levels. Furthermore, certain key ethical issues suggested in the typology are reflected by the interviews as well which can help to understand how and why counterterrorism professionals are facing ethical dilemmas. A case example is fundamental inconsistencies that are rooted in the way international counterterrorism is shaped like in the “global war on terror” and the related mechanisms of information exchange that can challenge professional and personal values. Another comparable example is the politicization of counterterrorism that can put the standard of threat analysis or reporting on policy progress towards the parliament under pressure. There have also been examples in which confidential information about threats interfered with the personal situation and interests of professionals. The differentiation between different levels clarify the rise of certain ethical issues. For example, organizational cultures or personal beliefs are



of a different nature than geopolitical developments. In addition, the differentiation can contribute to a reflection on tailor-made strategies to meet those issues as well. Where ethical issues caused by the inconsistencies of the world risk society are quite difficult to tackle, it remains feasible to address issues at an organizational or personal level. The overall diversity of ethical issues eventually expresses the critical role of internal goods in the practice of counterterrorism as reflected in the theory of Macintyre.

### **Need for ethics support**

Fourth, based on the current findings, there is a clear need for ethics support within the practice of counterterrorism. Meeting those needs can be difficult given the secrecy of the (national) security sector like police, intelligence and defence. Especially in the confidential realms of security and intelligence services, arrangements might be in place that cannot be taken into account in this research. Based on open documents, however, no special arrangements that facilitate handling ethical dilemmas have been detected, in spite of the transparency of many organizations that are working in secrecy. In the more open realms of the Dutch security sector that are not considered categorically as forbidden places, according to the law on state secrets, there are two initiatives that do reflect a value-oriented interest towards dealing with ethical dilemma. First, a program has been implemented within the national police force to solve practical and ethical issues in a multidisciplinary and contextual approach. It involves, besides relevant stakeholders, first and foremost police professionals on the ground and aims at identifying "good" police work (Nap, 2012). Second, within the defence organization, a multidisciplinary course on advanced military ethics has been developed and implemented in which ethical theory is taught alongside practical ethical tools aiming to increase moral competences and creating a web of alumni and potential multipliers across the defence sector (Baarda and Verweij, 2010; Van Baarle, 2018; Bosch and Wortel, 2009).

### **Role of leadership**

Fifth, the issue of leadership appears to be crucial in the dealing with ethical dilemmas in the practice of counterterrorism. In the interviews itself, the involvement of leaders has been considered as powerful if their involvement is

genuine and not determined by hidden agendas. These conditions include safeguards regarding the responsible use of power when discussing and dealing with ethical dilemmas. On a more fundamental level it appears to be crucial for fruitful dealings with ethical dilemmas that the capacity to deal with ethical issues should be an important criterion when selecting managers and leaders. Capacity can be understood here as sensitivity towards ethical issues, willingness to get involved in ethics deliberation and courage to make ethical considerations part of daily decision-making. Although this has explicitly not been raised with regard to the higher management of the National Coordinator for Counterterrorism and Security, there is research supporting the idea that high-ranking officials in a hierarchy are less likely to engage in principled dissent (Kennedy and Anderson, 2017). In other words, the less managers fuss over ethical issues, the better their career opportunities. This impression cannot be confirmed in this research setting. However, the ethical leadership in the practice of counterterrorism of this research is somewhat ambiguous. Although the management agreed with the execution of this research and approved the conditions to do so, there has been, throughout the research period, no special interest detected in the progress of this research and the ethical state of the professional practice. Such an ambiguity of ethical leadership is not conducive to the fostering of internal goods in the practice of counterterrorism.

### **Transparency, power and fear**

Sixth, internal group processes and power structures can be considered as crucial factors in dealing with ethical dilemmas. Therefore it can be learned from the findings of the interviews that it is important to raise awareness for those dimensions when engaging in the deliberation about ethical issues. Based on this awareness, it is crucial that the environments where the handling of ethical dilemmas takes place are conducive to have an open, transparent environment free of fear and power abuse (Foucault, 2011). This is important as it may be conducive for the development of virtues supporting internal goods.

### **Importance of training**

Seventh, training counterterrorism professionals and empowering their ethical competences is potentially beneficial to all ways of dealing with ethical dilemmas that occurred during the interviews. Dialogues and ethics deliberations with

colleagues, leaders, mentors, as well as a personal internal dialogue, can benefit from strengthened abilities to reflect, identify ethical questions and different ethical options to act. This implies that the application of virtue ethics in training counterterrorism professionals, as individuals and as a group, can be especially useful because virtue ethics through training can build and strengthen capacities to deal with ethical dilemmas (Overeem, 2017). Such a use of virtue ethics also contributes to the reflection and nurturing of internal goods.

### **Use and institutionalization of ethics support**

Eighth, some potential useful methods to address ethical issues can be identified, as interviewees suggested positive experiences with training programmes at the department of defence or try-outs of moral case deliberations at the National Coordinator for Counterterrorism and Security. Theoretically, there are many tools present in the security sector to help in dealing with ethical issues. Examples are the use of legal advisors, leadership development and focused recruitment, mentoring and training and oversight arrangements (Reding et al., 2013). Especially an investment into a structural training curriculum could strengthen the virtues of counterterrorism professionals. As already mentioned before, there are no institutionalized tools of ethics support in the field of counterterrorism, such as an ethics advisor or the structural implementation of a tool of ethics support. Similarly, methods such as moral case deliberation are, as far as publicly known and mentioned before, not applied on a structural level within the practice of counterterrorism. This can be considered as a disadvantage as far as facilitating the development of internal goods is concerned. At the same time it has to be acknowledged that the issue of institutionalization is by no means a guarantee for the development of internal goods. To the contrary, a fixation on the building of institutions can turn out to be counterproductive for the intrinsic development of internal goods on the long run as well.

Within the Netherlands there are some initiatives to institutionalize ethics support from a value-oriented perspective which suggests at least sensitivity regarding internal goods. The practice of counterterrorism could be connected to the initiatives that have been implemented within police (Nap, 2014) and defence (Van Baarle, 2018; De Graaf, 2016). Moral case deliberation has been mentioned in studies as a potentially relevant method in that regard (Weidema

and Molewijk, 2017). Given the suggested usefulness to professionals, moral case deliberation as a tool of ethics support will be further explored in the following chapter.

## 6.4 Conclusions

Ethics is inherent to counterterrorism. According to the interviewed counterterrorism professionals, ethical issues are common within what can indeed be considered as the practice of counterterrorism. From semi-structured interviews with counterterrorism professionals it becomes clear that four ways to approach an ethical dilemma can be distinguished: to reach out to colleagues, to the management, to a mentor, or a "self-dialogue". In general, it also comes to the forefront that at the time of the research employees at the National Coordinator for Counterterrorism and Security are not specifically trained to handle ethical dilemmas. In addition, they are not aware of any specific institutional arrangements available to address ethical issues in the practice of counterterrorism. Nevertheless, potential methods to deal with ethical issues and to strengthen the internal goods of the practice of counterterrorism were identified.

In the next chapter the relevance of moral case deliberation as a tool of ethics support within the practice of counterterrorism will be explored more in detail.