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FROM: TONY BEETON
TPU
15 SEPTEMBER 1993

CC PS/PUS (L&B) PS/Mr Fell. Mr Thomas o/r

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Mr Williams
Mr Shannon
Mr Brooker
Mr Cooke o/r
Mrs Collins
Mr Leach
Mr Marsh
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MR BELL

SPANISH HANDLING IN ETA

I have recently received copies of a number of the papers which were presented to the Law, Society and Terrorism Conference held in Oñati in Spain from 5-7 May this year. Although I have not yet had a chance to read through all of these I thought colleagues might be interested in the attached contribution from Adrian Guelke and Steven Greer comparing the RUC and the Basque Ertzaintza.

2. If you and other recipients are interested I will circulate other relevant papers from the Conference when I have sorted them. Perhaps I might also take this opportunity to welcome the notion floated by John Steele in his 20 August minute to Graham Archer of a programme for Ivor Roberts which would enable interested parties to explore these matters further. I should like very much to be involved in anything that takes place.

(SIGNED)

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THE ROYAL ULSTER CONSTABULARY AND THE AUTONOMOUS BASQUE POLICE: A COMPARATIVE ANALYSIS

Adrian Guelke, University of Witwatersrand, South Africa & Steven Greer, University of Bristol, England

This paper will compare the Royal Ulster Constabulary (RUC) and the Autonomous Basque Police (Ertzairuza) in the following respects:

History
Origins and Institutional Foundations
Key Characteristics
Counter-terrorist Function
Key Issues in Current Debute about Each Force

CONCLUSION

The success of the reform of policing in the Basque country stands in marked contrast to its relative failure in Northern Ireland. It may seem unfair to apply the term "failure" to the reformed RUC, especially in light of its survival of the onslaught from Loyalists following the signing of the Anglo-Irish Agreement in November 1985. It can also be argued that the RUC has played a crucial role in sustaining the viability of Direct Rule from London. However, fairly or unfairly, the RUC remains a focus of controversy and continues to be regarded by nationalist opinion in Northern Ireland with a considerable measure of suspicion, though the intensity of the suspicion varies widely across the nationalist political spectrum. What accounts for the difference in the success of the Ertzaintza and the RUC and what, if any, are the lessons that might be learned from it?

The most important contrast stems from the difference in the nature of the two conflicts. At first sight, ETA's war against the Spanish state parallels the Provisional IRA's war against the British state. But this superficial similarity masks the absence of serious intercommunal conflict between Basques and immigrants from other parts of Spain in the Basque region, a degree of tension notwithstanding. The intensity of communal antagonisms in Northern Ireland, on the other hand,

gives the conflict there a powerful internal dynamic which limits the contribution which the British state can make towards reform of the law and order system as part of a solution to the wider problem. This is not to say that official British responses to the conflict in Northern Ireland cannot be faulted. Indeed, successive British governments have frequently undercut their own reformist agenda on the law and order front by their responses to security crises occasioned by atrocities. But even if such mistakes had been avoided, the differences in political context would have militated against the RUC achieving the same level of public acceptance as has the Ertzaintza.

The absence of devolved institutions in Northern Ireland is another important difference between the two regions. The existence of an autonomous government in the Basque country to which the Erizainiza is responsible has been a vital factor in the force's legitimacy. The same cannot be said of the experience of devolved institutions in Northern Ireland in the 1922-72 period. However, it can still be argued that the creation of a legitimate regional government remains a necessary condition for the ultimate success of reformed policing there.

The view that the full legitimisation of the RUC, (or whatever name is given to a Northern Ireland police service in this context), is contingent upon the achievement of a political settlement is one that has been consistently advanced by the Social Democratic and Labour Party (SDLP) in Northern Ireland. The problem with this approach is that the prospects for a political settlement remain poor. It also begs the question of what can be done in the interim to improve the security situation, not least so as to enhance the prospects for a wider solution. The creation of local police forces in Northern Ireland has been suggested by Desmond Fennell and has been recently supported by Seamus Mallon of the SDLP as a possible way forward. Unfortunately, the success of the Ertzaintza casts doubt on these proposals. There has been a long tradition of muncipal policing throughout Spain and the Basque country. But the creation of the Erizainiza, whilst decentralising policing from Spain to, the region has tended also to centralise it with provincial forces abolished and municipal forces increasingly marginalised. A tradition of local policing has never existed in Northern Ireland, nor is there much sense in trying to manufacture it artificially. However, the creation of local police forces responsible to local authorities, but subject to supervision by the British and Irish states, might enhance the acceptability of the police in many parts of Northern Ireland. And given the support which Seamus Mallon has given the idea, such forces might also have

rather more success than the RUC has had in attracting recruits from the Catholic community.

The problem is if local forces were to be created for Northern Ireland it would probably be desirable in the context of the deep communal divisions there, to limit their counter-terrorist role so as to prevent their militarisation. The experience with the Basque Autonomous Police should help to allay fears that local police services might themselves become the captive of paramilitary organisations. That predictably was the objection from Unionists to Mallon's suggestion and an initial, but largely groundless, fear with respect to ETA penetration of the Ertzuintza. Such an initiative in Northern Ireland might usefully draw on the success of powersharing at the district council level to buttress police legitimacy. It would also provide a way of implementing in part the recommendation of the Hunt Committee for the civilianisation of policing in Northern Ireland. The existence of civilian policing at any level would help to narrow the gulf between the province and other functioning liberal-democracies, as the Hunt Committee originally intended. It might be objected that highly localised, routine, non-terrorist policing would be seen as relatively unimportant and that, stripped of responsibility for dealing with political violence, such local forces might lack status and be regarded by local communities accordingly. The experience of the local police in Spain would tend to confirm that this is likely to be true.

Another, arguably better way forward, and an important element in the joint authority proposal advanced by O'Leary and McGarry, would be to extend cooperation between the British and Irish governments in this field. As O'Leary and McGarry maintain:

One reason why the UK state has not effectively reformed Northern Ireland is just because it is a British state. A fully equal Irish dimension (to match a British dimension) is indispensable to promote and implement substantive reforms which would benefit the Irish nationalist minority in Northern Ireland and easure it genuine equal citizenship. The presence of the Irish government and its security forces, and a jointly supervised security apparatus will make the legitimate policing of nationalist paramilitary violence much easier to accomplish. One firm lesson of Irish history is that Irish nationalists are most successfully coerced by officials from a legitimate Irish state. Indeed hard-line law and order zealots should note that under any system of joint authority the opportunities for effectively administered and co-operative repression of paramilitaries are very good."

Thus, a Northern Ireland police force based on a reformed RUC could be made responsible to a British-Irish equivalent of the Basque Joint Security Commission. However, there might be difficulties if joint authority were to extend to permitting

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officers from the Irish Republic to police Northern Ireland. Unionists reacted with hostility to another recent suggestion made by Seamus Mallon, that a special cross-border police force be created to tackle terrorism. Furthermore, given the differences between Catholic opinion north and south of the border, it might be a mistake to suppose that police officers from the Irish Republic would necessarily be well received and be able to establish close relations with Northern Catholics. It is unlikely that they would encounter the difficulties which Indian troops faced in Sri Lanka. But their easy reception by Northern Catholics ought not to be taken for granted.

Admittedly, the deep divisions in Northern Ireland society make the Basque case an inexact analogy. However, the prospect of an indefinite continuation of the cycle in which reform is undermined by scandal or by hasty reaction to atrocities, is even less inviting than the risks that might be entailed in an initiative based upon an attempt to learn some lessons, however indirect, from the Basque experience. The confidence expressed by wide sections of Basque society in the Autonomous Basque Police shows how large the benefits could be. The best way forward for Northern Ireland thus appears to lie in building upon the Anglo-Irish agreement by creating a joint British-Irish Commission for the supervision of the RUC along the lines of the Joint Security Commission for the Basque Country, but without permitting officers from the Garda Siochana to police any part of Northern Ireland. The reduction in the role of the British-Irish Police Commission could then be made contingent upon successful devolution of political responsibility from London to Belfast on the basis of power sharing.

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his force was never formally dissolved, it effectively isappeared when the Basque Government went into exile the following year.

HISTORY OF POLICE

- 5. Following the publication of the 1979 Royal Decree (copy of relevant Article at Annex A) a Police Academy was formed outside Vitoria and a group of 75 officers began training. These officers, who were initially called "Security Guards", provided security services (escort duties etc) for Basque Government Ministers and officials. Police trainers were recruited from local and foreign sources, including the British security company, Argen. And the Spanish Army provided the Head of the new force. By February 1982 when the Police Academy was inaugurated the group of 75 officers had grown to 140. The first 700 police cadets then joined the Academy and of these 600 were commissioned in October 1982 to form the ERTZAINTZA. Their duties were traffic control and the security of Basque Government offices. Details of their progressive deployment throughout the Basque Country are at Annex B.
- 6. The early deployment of the Basque Police force was in rural areas, with an average of 600 cadets passing out of the Police Academy each year. Their acceptance was, however, no easy task. In official circles in Madrid and in the other security agencies there was mistrust of the force. It was difficult for those Spaniards to separate the Basque Police from the myth that all Basques supported terrorism. Fortunately time has proved wrong the view that the Ertzaintza could not be trusted in an anti-terrorist role. As well as the climate of mistrust which overshadowed the Ertzaintza's relations with other security agencies, the eventual role and size of the force remained undefined. Slowly however the Basque force began to win the confidence of the public. Unlike officers of the other agencies, the Basque policeman is on the whole of Basque origin. He carries out his duties in the Basque Country where his family bonds and friends are. As the number of officers increased so it become less strange to have a friend in the force. Which was something new to Basques as under Franco their presence in police forces were rare and to have a policeman as a friend was, if not suspect, certainly frowned upon. The Basque police officer therefore became part of the local community and not the more traditional "police officer of occupation". Their acceptance has grown to the extent that a recent study has shown that the acceptance of the Basque Police among the local population is above 85%, apparently high for an European country.
- 7. Slowly too the Ertzaintza took on more responsibilities to the point that in the late 80s they began to be involved in anti-terrorist work. Having started to win the hearts of the people, they posed a significant threat to ETA who in 1990 or

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191 produced a document written by an ETA convict, Jose Javier abaleta Elosegui "WALDO", which gave instructions on "how to fight the Basque Police". The approach "WALDO" suggested was a selective one; to choose individuals within the force in order to slander them, run them down, associate them with the former regime, and generally make the lives of them and their families Such campaigns can sap individuals morale and the Basque Police officer, unlike his Spanish force counterpart in a unbearable. similar situation, cannot be transferred out of the Basque country to another posting. Some 50 officers were targetted and attacked by the newspaper EGIN (an ETA mouthpiece). The Interior Department of the Basque Government responded by a veto on any contact with EGIN and an "all-doors-open" attitude to any other newspaper or media which wished to receive information on any individual or on the Basque Police.

- 8. The next significant date in the history of the force was August 1990 when the Basque Security Council (which included Madrid's delegate to the Basque Country) signed an agreement for the Ertzaintza to take over more duties from the Civil Guard and the National Police. The Civil Guard would continued to police the coasts, frontier and airports and perform extra-national duties (eg drugs and terrorism). The National Police would restrict their activities to the major cities, and the Ertzaintza, whose numbers were to increase from approximately 3000 to 7500, would take over the duties the other forces vacated including a higher profile anti-terrorist role. This act is seen as the coming of age of the Ertzaintza which had proved to its former detractors that it had the will to weed out early ETA attempts to infiltrate it and then to carry the fight to ETA.
- 9. Hand in hand with their acceptance by the general public and the evolution of their duties, grew an appreciation of the Basque Police's professionalism by their former detractors. Cooperation between them and the other security forces is now very strong. An example is their often high profile joint operations with the Civil Guard, something which would have been unacceptable to the public only a few years ago. I believe it is fair to say that at present the Civil Guard and the National Police have stronger links with the Ertzaintza than they have with each other. ERTZAINTZA successes against ETA are also mounting, the most recent being the arrest on 6 July of the ETA extortion ring.
- 10. ETA has maintained a political decision not to target Ertzaintza officers as victims of their outrages. However, this did not deter them from killing the first Commander of the force, a Spanish Army officer. In the course of their duties against ETA, four other officers have lost their lives, including a National Police officer seconded to the Ertzaintza. ETA's "political" decision was taken in the knowledge that an open attempt on the life of an Ertzantza would provoke a public outcry. Now that ETA is on the ropes, the Basque Government are

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unwilling to predict that ETA will not, in some desperate misguided attempt to attract attention, try to assassinate a Basque policeman.

11. Details of the Ertzaintza's structure and duties are at Annexes C and D.

COMMENT

- 12. Police action is only one of the four strands of the Government's strategy against terrorism (paragraph 14 of the Terrorism Despatch of 23 March). For the homeland of ETA's terrorism it is, I believe, a crucial strand. Seen as Franco's men and recruited outside the Basque Country to do spells of duty inside it, the Civil Guard had no chance of winning the hearts of the Basque public. They were a poignant reminder of Franco's repressive days and they were ammunition for ETA's cause. home grown Ertzaintza have succeeded with the public where the Civil Guard never could. The Ertzaintza's high profile anti-terrorist role has also helped the Civil Guard by legitimizing their anti-terrorist role in the eyes of the The attitude of the public towards terrorism has changed dramatically in the last five years or so. And while it is difficult to judge exactly how much of this is attributable to living with a more normal police force than with an "army of occupation", there is no doubt in any mind that the Ertzantza's contribution has been significant.
- on, all this might not be worth a row of beans. But ETA is on the wane and the reduction in their power base, and therefore their operational ability throughout Spain is not only due to government successes against them and to French cooperation, it is also due to the ground swell of opinion against them in today's more open Basque society. The Ertzaintza, which in thirteen years has grown from a fledgling, sometimes mistrusted, Spanish/Basque experiment to a professional community and anti-terrorist police force has played a significant role in this process. It is one of several success stories in the fight against ETA.

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ARTICLE 17 OF THE STATUTE OF AUTONOMY OF

THE BASQUE COUNTRY,

INCLUDING TRANSITORY PROVISION FOUR

Article 17.—1. By means of the process of updating of the general system of Traditional, Regional Law provided for in the First Additional Provision of the Constitution, responsibility shall lie with the institutions of the Basque Country, in the manner set out in this Statute, for the general organization of the Autonomous Police Forces in respect of the protection of persons and property and the maintaining of public order within the autonomous territory; the State Security forces and Corps retaining in all cases responsibility for police services of an extra— and supra-community nature, such as guarding ports, airports, coasts and frontiers, customs, controlling the entry and exit from national territory of Spaniards and foreigners, general organization of alienage, extradition and expulsion, emigration and immigration, passports and national identity cards, arms and explosives, fiscal protection of the State, smuggling and tax fraud involving the State.

- 2. Supreme command of the Basque Autonomous Police Forces shall lie with the Government of the Basque Country, without prejudice to the powers that may be vested in the Provincial Councils and local Corporations.
- 3. The Judicial Police and Forces which perform these functions shall be organized in the service and under the vigilance of the Administation of Justice, under the terms which the laws of procedure stipulate.
- 4. For the sake of co-operation between the Autonomous Police Forces and the State Security Forces and Corps, there shall be a Security Council consisting of an equal number of representatives of the State and of the Autonomous Community.
- 5. Initially, the Autonomous Police Forces of the Basque Country shall comprise:
- a) The Corps of «Miñones» belonging to the Provincial Council of Alava, currently in existence.
- b) The Corps of «Miñones» and «Miqueletes» dependent on the Provincial Councils of Vizcaya and Guipuzcoa which are hereby re-established. At a later stage, the Institutions of the Basque Country may agree to reorganize into a single group those mentioned in the foregoing paragraphs, or carry out whatever reorganization is needed for the proper fulfilment of the powers assumed.

All this without prejudice to the continuing existence, for representational purposes, of the «Minones» and «Miqueletes».

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- b. Notwithstanding the stipulations of the preceding numbers, the State Security Corps and Forces may intervene in the maintenance of public order in the Autonomous Community in the following cases:
- a) When called upon by the Government of the Basque Country. Intervention shall cease at the request of the same.
- b) On their own initiative, when they consider that the general interest of the State is gravely compromised. The approval of the Security Council referred to in number 3 of this article shall be required. In cases of particular urgency and in order to fulfil the functions directly entrusted to them by the Constitution, the State Security Corps and Forces may intervene directly under the sole responsibility of the Government, which shall report to the Spanish State Parliament. The Spanish State Parliament, through constitutional procedures, may exercise the powers invested in it.
- 7. In the case of the declaration of a state of alarm, exception or siege, all the police forces in the Basque Country shall come under the direct orders of the civil or military authority, as the case may be, in accordance with the legislation regulating these matters.
- Article 18.—1. The Basque Country is responsible for the logislative development and the implementation of the basic logislation of the State in matters of domestic health.
- 2. In Social Security matters the Basque Country shall be responsible for:
- a) The legislative development and the execution of basic State legislation, except the rules which govern the economic organisation of the Social Security.
- b) The management of the economic organisation of the Social Security.
- 3. It shall also be incumbent on the Basque Country to execute State legislation on pharmaceutical products.
- 4. The Autonomous Community may organize and administer, for these purposes, and within its own territory, all the services connected with the matters previously expressed and shall supervise institutions, organizations and foundations as regards Health and Social Security matters. The State shall keep for itself the inspection powers so as to ensure the fulfilment of the duties and powers contained in this article.
- 5. The Basque Public Authorities shall adapt the exercise of the powers they may take up in Health and Social Security matters to criteria of democratic participation on the part of all those involved,

On the coming into force of this Statute, the powers and resources that have by that time been transferred to the General Basque Council shall be deemed to have been turned over definitively.

All acquired rights of any kind or nature held at the time of the transfer by civil servants and staff attached to state services or other public institutions due to be transferred shall be respected.

Third. 1. Transfers that are to be made in education matters, whether of property or staff, currently used by the State in the Basque Country to perform its services, shall be effected in accordance with the programmes and schedules to be established by the Joint Transfer Committee set up in the second Transitory Provision.

2. The transfer of education services shall be made to the Autonomous Community or to the Provincial Councils, as the case by be.

Fourth. The Security Council to be set up by virtue of the provisions of article 17, shall decide on the Statute, regulations, staff, numbers and recruitment of the Autonomous Police Forces, whose positions of command shall be appointed from among the Chiefs and Officers of the State Armed Forces and Security Corps who, while serving in these Forces, shall be in the administrative situation to be established in the Law on the Autonomous Communities' Police Forces, or in the situation that the Ministries of Defence and of the Interior may decide, and while in this situation shall be excluded from military law. Licences for arms shall in any case be the responsibility of the State alone.

Fifth. The Joint Transfers Committee to be established for the application of this Statute shall conclude the appropriate agreements whereby the Autonomous Community may assume management of the economic system of the Social Security, whilst respecting its unified nature and the principle of solidarity, in accordance with the procedures, time limits and arrangements contained in such agreements for the sake of orderly management.

Sixth. The co-ordination in execution provided for in article 19.2 shall be applicable in the event of the State's according to the Autonomous Community, on a concession basis, the use of a new television channel owned by the State and set up specifically for broadcasts within the territorial area of the Basque Country, under the terms to be laid down in the aforesaid concession.

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BASQUE POLICE DEPLOYMENT CALANDER

October 82 - First graduates of Police Academy deployed on traffic control duties and the custody of of Basque Government buildings

October 84 - Officers deployed in the towns of Arrasate, Beasain, Bergara and Durango

August 85 - Officers deployed in Gernika-Luno, Ondarroa and Tolosa

May 86 - Officers deployed in Balmaseda, Getxo, Zarautz and Zumarraga

August 88 - Officers deployed in Erandio

August 89 - Officers deployed in Azkoitia, Galdakao, Hernani and Andoain

January 91 - Officers deployed in Llodio, Renteria and Eibar

September 91 - Officers deployed in Laguardia

September 92 - Officers deployed in Muskiz and Sestao

May 93 - Officers deployed in Basauri

December 93 - Officers to be deployed in San Sebastian

Early 94 - Officers to be deployed in Irun

October 94 - Officers to be deployed in Bilbao

August 95 - Officers to be deployed in Vitoria. Deployment calender ends.

Note: By the end of the process 7,500 officers will be deployed, representing one officer for every 280 inhabitants.

Annex C

BASQUE POLICE FORCE STRUCTURE & DUTIES

The force is overseen by the Basque Government Security Council which includes representatives of Central Government. Until 1995 when the force will be fully deployed, it will be headed by a Spanish Army Officer. Thereafter Spanish Army involvement will cease.

I. LAW & ORDER (Estimated 5.500 officers)

- Law & Order Division comprising;

Police stations Traffic police Institutional custody squad sos rescue squad Police band

- Resources allocated to the Law & Order Division:

Mobile brigade Explosives deactivation unit Escort squad SWAT squad Airbourn (helicopters) unit

II. CRIMINAL INVESTIGATION & JUDICIAL POLICE DIVISION (Estimated 1,500 officers)

- Criminal investigation & judicial police division comprising;

Criminal investigation unit Judicial police unit Gaming & gambling division Intelligence unit

- Scientific Police Division comprising;

Forensic unit Documentation unit

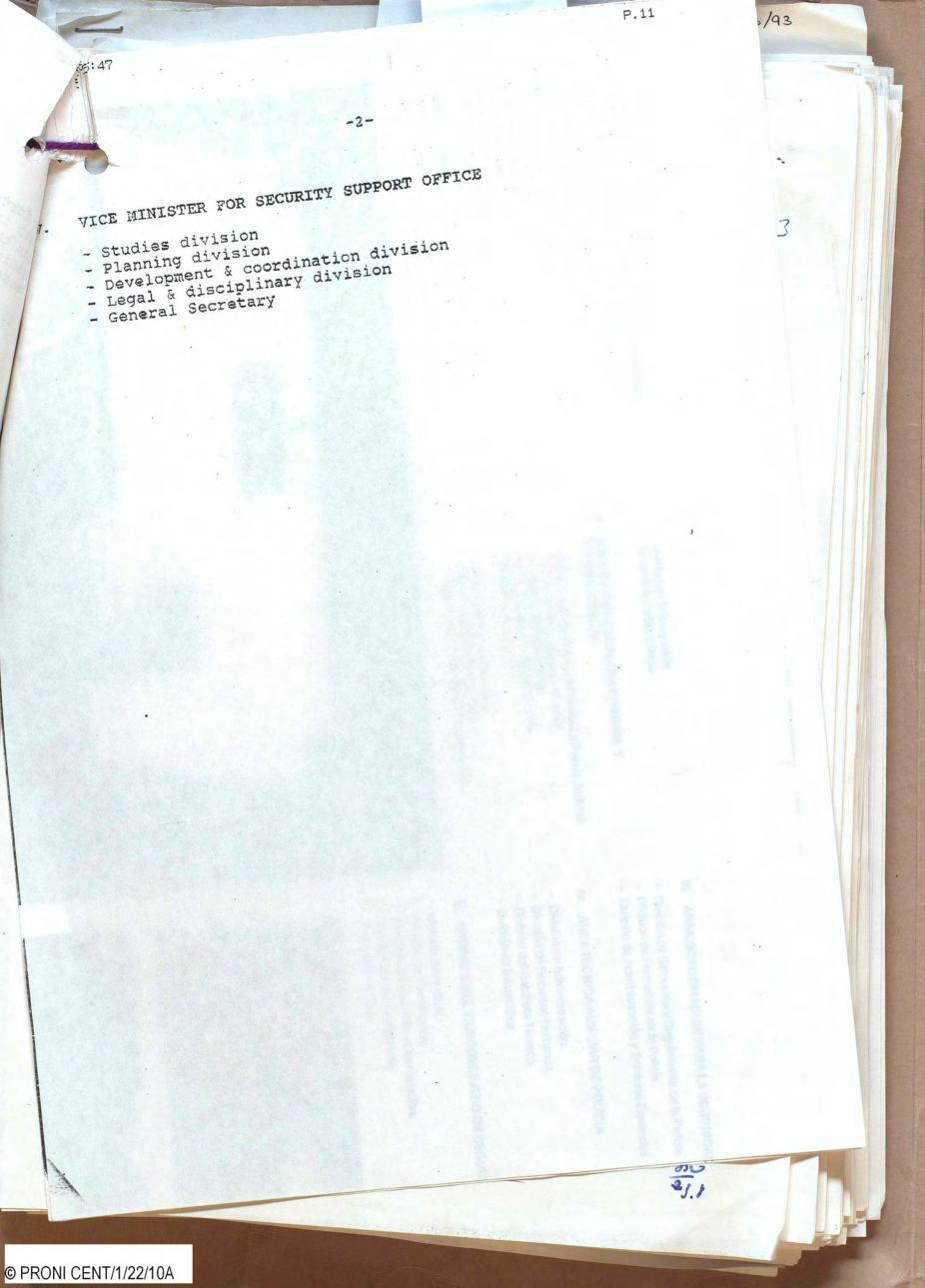
III. SECURITY TRAINING DIVISION

- Police selection & steering division
- Police training division
- Admin & general services division

POLICE SUPPORT SERVICES DIVISION IV.

- Administration sub-division
- Man power sub-division
- Labour relations sub-divsion
- Information technology sub-division

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La estructura pues de la Ertzaintza corresponde en la actualidad al siguiente organigrama:

1. AREA DE SEGURIDAD CIUDADANA

- División de Seguridad Ciudadana: Unidades de Comisarias Unidades de Tráfico Unidad Banda de Música Unidad de Instituciones Unidad de SOS-Deiak
- División de Recursos Operativos: Unidad de Brigada Móvil Unidad de Desactivación de Explosivos Unidad de Escoltas

Unidad de Intervención Unidad de Helicópteros

AREA DE INVESTIGACION CRIMINAL Y POLICIA JUDICIAL

- División de Investigación Criminal y Policia Judicial: Unidad de Investigación Criminal. Unidad de Policia Judicial. Unidad de Juego y Especiáculos. Unidad de Información.
 - División de Policía Científica: Unidad de Laboratorio Policial. Unidad de Identificación y Documentación.

III. AREA DE FORMACION PARA LA SEGURIDAD

- División de Selección y Seguimiento de la Policía.
- División de Formación de la Policía.
- División de Administración y Servicios Generales.

IV. AREA TECNICA AUXILIAR DE POLICIA

- División de Administración.
- División de Recursos Humanos.
- División del Gabinete Técnico.
- División de Informática.

V. GABINETE DEL VICECONSEJERO DE SEGURI

- División de Análisis.
- División de Planificación.
- División de Desarrollo y Coordinación.
- División Legal y Disciplinaria.
- Secretaria General.

