

The Historical Overview of the Hungarian Police

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The dawn of the Hungarian police and the forces of law and order dates back to the second half of the 19th century. The first prominent Hungarian practitioner of the Police Science was Agoston Karvasy, a Hungarian jurist. This study presents the development of the Hungarian Police Science and the concept of policing from the 19th century to the present, when the Hungarian Accreditation Committee by the decision of the 2012/8/III/2/2. (2012th 09, 28) recognized Police Science as a scientific discipline. While reviewing the history of policing it can be observed how law enforcement changed with the modernization of Europe and Hungary and how it reached its present form. I find it interesting that researches and debates on enforcement laws are conducted mainly by scholars and professional of administrative law and only occasionally by practitioners with noticeable writings.

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“To understand a science it is necessary to know its history.”

Over the past 10 years the efforts of professional and civil society law enforcement organizations in 2012, have passed an important milestone since the decision of the MAB 2012/8/III/2/2. (2012.09.28.) Police Science has been recognized as a discipline, but it has also been found necessary to develop a decision on the content and form, which was later confirmed by the decision no. 2012/10/V/2. The resulting new science’s scholars, however, require that the scientific and technical challenges meet requirements, in examining Law Enforcement and exploring the past, present and its potential in the future. They are all motivated to seek out and review the history of Hungarian Police Science, which has its roots in the late 19th century war.

The revolutions in the 18th and 19th century, the French and also the First Industrial Revolution, both had a physically and mentally decisive impact on people’s lives. Large cities became the most typical township in the industrial society. People’s life expectancy grew significantly. The railways became highly important for strategies in national economy. In the long term in addition to railway tracks, the settlement system and infrastructure have transformed too (access routes, pipelines, associated branch lines, bridges, subways, etc.)

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As a result of the industrial revolution a great mass of the population moved to new residential areas in order to sustain everyday livelihood and to enjoy the opportunities offered by the industry which enabled them to live and work there in the future. All of these changes were decisive in the formerly widespread public policies and public security conditions as well. These new challenges needed new solutions and the answers were found first in the big cities of Western Europe. Paris² was among the first big cities³ in Europe where State Police were introduced, and later served as a model for other European cities and states.

Due to Habsburg oppression, modernization in Hungary went forward just after the Compromise of 1867, and switched to a higher speed later on. In the second half of the 19th century due to the geographical situation of the country the Hungarian Police Science practitioners and researchers relied mostly German literature, therefore I mention the German sources primarily. Among many others Robert Mohl's work: *Die Polizeywissenschaft* (1832) was published in numerous editions and provided a resource for the Hungarian cultivators work on this topic. He explains the law in order, and the institute of law in order, and describes it constrictively and distinguishes it from the recent judicial institution. According to him: *"The police or police law is all the public institutions and rules that aim at avoiding obstacles and problems in the society which would hold back the comprehensive development of human forces and where some of the power they promote are not safe or imperfectly able to sustain the development."* In later times (1870) another German jurist engaged with science of law and order, Lorenz von Stein says: *"Policing is in which the government intervenes in the administration policies and also in which the police are part of the public administration."* The Hungarian police science practitioners, especially in the beginning, were based on the works of Lorenz von Stein, and mostly relied on it. In Germany there lived and worked Otto Mayer too, whose outstanding work of dogmatic law (e.g. *Das Staatsrecht des Königreiches Württemberg* c. works 1829) spread not only in Germany but also in Austria and Switzerland. As a result, the German administrative law system is based on his dogmatic system. Otto Mayer reached this effect as from the substantive law he worked out the general concepts and legal institutions system. By his interpretation the constitutional state is a well ordered state by administrative law.

According to this the constitutional state consists of the following:

1. The separation of leading powers.
2. Dominance of law and rules.
3. Well-ordered administrative law.

To express the fact that during this period the evolving Hungarian state police needed well prepared staff with scientific knowledge Nandor Pilchner stated in 1876, in his following article: *"In my opinion the directors of police officials should be more scientific in each aspect than the judges are. Since while the judge takes the law and facts underlying the*

2 In 1667 Louis XIV of France defined law enforcement as the task of the officer not the task of the city.

3 Until the birth of the Prussian Allgemeines Landrecht 1794, the law stated: the task of police is maintaining of order and security and preventing of danger.

judgment with the help of other council members, nonetheless the policeman in countless cases has to act with the absence of any material and is expected to work alone.”

Compared to the pioneer of English, French and German law enforcement scientists we, Hungarians do not have to be ashamed, as our first law enforcement scientists have already taught “state enforcement” and “police law”⁴ at the University of the Jesuits in Kolozsvár. The first, significant law theorist of the Hungarian science of law enforcement in the 19th century was Ágoston Karvay.

In his his work, the “Science of Law Enforcement”,⁵ he explains these main subjects:

- *main principles of law enforcement*,⁶
- *education of political culture, scientific organisations, religious literacy*,
- *common courage in the existence of the state*⁷,
- *common courage in the existence of persons*,⁸
- *property courage*.⁹

Today the meaning of common courage or property courage might make us smile, but in my view they are almost equal with the security of common and personal property. Beside the above mentioned phrases Karvay estimated the definition of the science of law enforcement: *“The science of law enforcement is from those principles which prevent danger and ensure the need of people. Danger stems from the evil will of people or natural elements which are independent from the human will.”*¹⁰

In my view it is the first Hungarian law enforcement definition which is effectual nowadays too. From these I would like to underline the prevention of state danger. In his work the following statements could be read: *“The police have to do more activities in order to maintain the order and courage which are the followings: percipient, preventive, discouragement and discovery activities.”*

Later, in 1865, in the *Jog és államtudományok* encyclopaedia published by Tivadar Pauler. In his works among other things he put out public policing for a matter of discussion. Referring to German authors and works by Karvay Ágoston, he says about the concept of policing: *“The final goals of the state establishment: to prevent several possible violations and eliminate threats to keep social order, and it is necessary to eliminate all of its harmful consequences. To reach these goals directly the established institutes for this*

4 BÍRÓ Vencel: *A kolozsvári jezsuita egyetem szervezete és építkezései a XVIII. században*, Kolozsvár 1945, 8.

5 KARVASY Ágost: *A közrendészeti tudomány* Pest, 1862, 153.

6 The principles of law enforcement according to Karvay:

- The police have to interfere only in those cases when the citizens’ activity is not successful.
- The police activities equal chastity.
- Equipment used by the police must not be opposed to the citizens’ rights.
- Police activities have to be rightful and subservient too.
- That equipment must be chosen which are the best guarantee for reaching the goal.
- Police power must not be controlled by arbitrary police officers.

7 “It means: common courage in the existence of the state, common order and peace, prestige of state power and authorities at the maintenance of rights and warrant of state organization.”

8 Common courage in existence could be bothered by:

- loud music,
- rebellion,
- revolution.

9 “Preventing danger, which can threaten courage.”

10 *Ibid.*,1

purpose belong to the broad range of Law enforcement. The law enforcement politics or policy study by virtue of the principles are in a systematic content of avoiding the direct threats to the liberty of the public and in which it can cause civil order breakdown, further on avoiding and eliminating all of its harmful consequences.”¹¹

Pauler speaks no longer in general of the elimination of hazards, but specifically the prevention of violations, and the prevention of threats to the social order.

According to Pauler the main task of the civilian police is to maintain public order. From the subjects mentioned it clearly seems that this should exist most of all in the public (government) and private security protection.

At this time, the spreading and adoption of policing was marked by published encyclopaedias in the era when the authors considered it necessary, in the encyclopaedia, to include articles on the executor of policing which were the police. For example, the Universal Encyclopaedia of Hungary¹², in 1873, wrote the following about law enforcement: *“The police, the sum of the measures in the state in which the public order and public safety are in order to protect and defend and the implementation of those by the state government under the control of media. By the distinction between public safety and welfare police the welfare police has lost most of its importance after the as a bulk had been assigned to the other branches of the administration as non-police actions.”*

About the same thing the Hungarian encyclopaedia in 188,¹³ recorded the following: *“The police (Latin Politia, . greek: Politeia curves) an official institution in a state which cares and is responsible for the public safety, the well-being of society, and the free development of the state which, however, is separated from the institutes of justice. The police are endowed with extraordinary powers to provide emergency assistance. In addition they can also command and decree and order penalty, police are to maintain public security and anyone who breaches the rules may have penalties applied to them, and also the police are enabled to do everything possible to discover crimes committed in secret.”*

During this period, evolving law enforcement, was organized in parallel with the capital city police and state police law and the unborn police law. By all this György Kedvessy was led to collect rules and regulations and give the concept of police and their duties.¹⁴ In his opinion – *“The definition of Police means all the relative authorities and law offices, which are responsible for promoting the well-being, sustaining public order and security, not to mention preventing the threats to these, even if this comes from human action or omission or from the elements of nature – to implement the established national and local regulations as well as to maintain them, further on to investigate the perpetrators of crimes and misdemeanors and apprehend and send them to the Tribunal.”¹⁵* Although the statement mentions “relative authorities” becomes a little romantic and

11 TIVADAR PAULER Tivadar: *Jog és államtudományok encyclopaediája*,. Pest Emich Gusztáv tulajdona 1865, 231.

12 *Egyetemes Magyar Encyclopaedia*, XI, Szent István Társulat. Buda-Pest, 1873.

13 *Magyar Lexikon XIV. (Az egyetemes ismeretek encyclopaediája)*, Budapest, 1884.

14 According to Kedvessy there are two types of police:

- administration police (preventing the danger and controlling the observing of order),
- judicial police.

15 KEDVESSY György: *Országos és Pest városi rendőügyi szabályrendeletek*. Pest, 1872. 1. §

further on the expression of “to promote the welfare state” bears the marks of the former Prussian police state in its time, I still believe it has recorded clear wording before the existence of the 1881 Police Act and which perhaps have given instruction to the period. Especially because at this time in the largest city of Hungary, in Pest city, the Police chief executive was Thaisz Elek who sometimes took advantage of deregulation and exceeded his duty and power.

The emergence of modern policing also had an effect on Hungary’s evolving civil police. Thus the 1881 XXI. Law article (Budapest, the capital’s police) Section 2, fixed the Metropolitan (state) police duties in which it is clear that the creation of it was based on the then-police concept. Therefore by the law 2. § the Metropolitan Police was responsible for:

- In its operation field, to protect the safety of person and property, sustain peace and public order, to possibly prevent the violation of criminal laws, rules regulations and decrees, and prevent any natures of dangers and damages.
- Those things which may occur by accident or omission. Moreover to restore peace if the order was disturbed to report the guilty people acting against the law and rules and for punishment and chastisement passing them on to the competent judge or authority. In general to fulfill the surveillance, prevention and discovery duties of police but within the present law framework.

The relationship and connection between the police and the administration was the subject of debate from the beginning. This is confirmed in a formulation by Béla Grünwald administrative, legal professional.

Béla Grunwald in 1884, wrote the following: *“The third major function of the government despite some others is the police. The police represent the action of the State, which is used for external security of existence which is one of the main conditions of human development, and giving these to the citizens of the state. Thus, the subject of public law enforcement is to discover any hazardous factors and is responsible for the protection against these effects of factors... cannot have its own system but adapts the existing Interior government system and has the same system as the Interior government. The activities of policing are (negative) maintaining and protective.”*¹⁶

Similarly to Grunwald, Kalman Csiky also defined law enforcement as part of the administration. According to Csiky’s statement in 1889, on police administration – as an administrative activity – it ensures the living conditions of the individual, lies in the center of gravity, therefore security and safeguard will be provided to the person so threatened by the nature just as by the people of indomitable strength.

The power of the state for this purpose activities, measures and its institutions constitute the whole of policing and the relevant administrative laws form the right of policing.” It shows the diversity of the era that many people in the topic of Policing especially workers in the public sector took up the pen to express their views. And so, Paul Smith, who was professor at the Kecskemét Academy of Law, portrayed the notion of law enforcement in 1887 as follows. “So I mean with the policing as adminis-

16 GRÜNWARDL Béla: *A közigazgatás és a személyi élet*, Budapest, 1884, 222.

trative activities such as removal of outside threats to living and development of state residents”, furthermore he added: The law enforcement includes the defining and managing legislation of the activities of the executive power and all the state institutions.

Subsequently, this divided Law Enforcement into three main sectors:

1. *State Police*, or rather state security police (prevent or eliminate state security threats),

2. *Public Policing*, or rather Social security police (law and order in society, peace and quiet maintained),

3. *Public Safety*, or rather personal and property safety of law enforcement.

The law enforcement practitioners did not or only tangentially address the secret police. A significant person among them is Gyula Fekete, who wrote a publication in the Law Bulletin issue of 19 October 1877, under the title of: “*The nature and organization of the secret police*”. The author defined the secret police as one of the unique timbre of “ordinary policy directing” of which has the following two basic forms.

- Civilian secret law enforcement (which is responsible for control of robbers, thieves, criminals. The author simply called this civilian policing).
- Political policing (deals with the crimes against state security, misdemeanours, control of the secret popular movements).

Like all new forces, so the police were looking for their place. In the second half of the 19th century eminent exponents have discussed the law and administration several times. The police versus administration debate appeared again also in the Hungarian Administration magazine, 1896, May 3rd issue where in his writing Kiss Mihály¹⁷ explained that the administration developed from policing and the discussion of the theory of policing led to the recognition of the base of administrative law principles and theory. According to him policing and public administration both act as departments of the state, however, the conceptual scope of administration is bigger than the one of policing. He says administration has law enforcement but the law enforcement itself is not administration, even if it has administration. However the administration is prior to law enforcement and policing. The author defines policing as the following: “*the police therefore is an acting state organization which seeks to provide – in a positive and negative direction by the right to put on pressure – the success of the state’s organizational operation in the interest of public development against the threats from human actions and omission.*”

Falcsik Mihály reflected on Kiss Mihály’s writing as the following: “*policing is a branch of public administration which prior to administration prevent obstacles that threaten the achievement of the objectives of the State.*”¹⁸

Although both authors refer to the same sources, regarding the police, conflicting conclusions are reached. To close the debate Michael Kiss noted that in his opinion the school of life has taught that the administration must be separate from policing. The discussion on the pages of the Hungarian Public Administration ended, but in professional communities as a subterranean stream, were still continuously present.

17 *Közrendészet, A rendészet és közigazgatás, Magyar Közigazgatás*, 18(1896).

18 *Ibid.*, 20(1896).

Within the circles of law enforcement professionals the concept of Law Enforcement Police created by exponents and the practicing law enforcement representative institutions most importantly the police have similarities among their tasks which are clearly discernible. So it is no surprise that we can read in the Police Encyclopedia, published in 1909: *“Policing is meant by the State Administration of Internal Affairs, the activities of the coercive power of law and order and the maintenance of public safety. Thus police are a task of the state. The other administrative branches are independent and self-sufficient. The scope of police duties according to the known trichotomy includes prevention, and detection. Besides these substantive police laws this group must include the discretionary rights which as well must never cross these limits.”*

The regulations of the era summarized in the Police Lexicon are also displayed. The novelty of it is being the first record of the discretionary rights of the police that still lives and are valid nowadays. At the same time, more precisely, the Hungarian legal encyclopedia published in 1907, clearly defines the law enforcement as administrative functions. While acknowledging that the Security Unit has an independent function as well such as: *“prevent the commission of criminal offenses is mostly to maintain personal and property safety after all.”*

There have been serious attempts made in the first decade of the 20th century to create a precise definition of known and in-use public and security policies. I would highlight the one which was published in the Révay encyclopedia:

Public order: the order of state and society together, that is open to people living with and within the boundaries of the law and of nature.

Public safety: the social order, which changes in realization of personal, social and public functions aspiring to individual and joint operations against disorder and peril and is ensured as much as possible, and preventing any person who causes dangers and acting against them.

At the beginning of the 20th century, on the topic of Police and policing, *Concha Győző*, one of the greatest representatives of Hungarian public law science and a conservative-minded cultivator of the political and constitutional theory, whose ideas and opinion on police and law enforcement were liked and recognized by the up to date professional media, wrote in his work *Policy* (1905)¹⁹ that: *“the public policy is the cooperation of people for the purpose of a common goal which bound by law and nature, but also the operation between the legal and natural boundaries, not only the state authorities but also free for individuals.”* In addition, he defined the order of the state and the society, in which he identifies that to establish and promote the conditions for it is the responsibility of the police. According to him, the police could secure the public order by calling for guards, preventing attacks and restoring order to the troubled area, avoiding physically destructive attacks, and the restoration of law and order. These ideas still apply nowadays. *Kmetty Károly* in his book (1905) refers to the diversity of policing and its connection to the administration when he writes that (the administrative police) *“Police have as many aspects, as many sections as the administrations has.”*

19 CONCHA Győző: *Politika*, Budapest 1905, 308.

In addition, in his opinion law enforcement can be distinguished on the basis of hazards, which may be:

- security (which is used to prevent the risk coming with the illegal use of human free will),
- administrative (preventing object, interest, life-threatening hazards),
- political (ethnic, police press),
- Public Order (removing risk which comes with some intention against law).²⁰

Henrik Dorning was familiar with the domestic and Western European policing and police he was personally privileged to study the work of the Paris, Vienna, Berlin police and compared them with the Hungarian circumstances. He observed that the German, English, and French use the same word for the police as an organization and as a law enforcement function.

In Hungary we can meet the word police for the first time at the beginning of the 19th century just after the language reform (which meant organization and function as well, see for example The Field Police Act). Then in the mid-19th century, the content delineation becomes clear of policing and police. In 1922 Henrik Dorning in his presentation and the written statement of it he writes accurately about the relations between the police and law enforcement, as: “*the police are the public authority body, which is to defend the existing legal system against the imminent threat even with coercive means.*”

Now it is apparent that the police are not only an armed body and guards, but is an office too. Further on he even writes, in his opinion, that the police are not covered for everything just because of their license, which is called Security Unit, because he thinks each administration has its policing.

Móric Tomcsányi, lawyer, professor, member of the Hungarian Academy of Sciences in his inaugural address (1929), paid special attention to the topic of policing. Therefore he examined separately the policy, public policy in legal context and the purpose of the police function. He found that to draw a border between police functions and administrative functions is often very difficult. He agreed with Concha Győző that the essential feature of police is discretion, the so-called right for discretion. In Tomcsányi's opinion: “*Police actions are a matter of administration and police administration, only one species of the administration.* The weird irony of history is that a book about the concept of policing has been produced in the most dangerous times when police without legal barriers became an essential tool of ‘social control’.”²¹ According to the author József Tóth “*The police are a mirror in which the image of the current state reflects its legal structure*”

The outstanding expert science and servant of the Hungarian government and administration Magyary Zoltán in his magnum opus on Hungarian Public Administration, (textbook published in 1942) wrote about policing:

“In our term policing is to help to protect against disruption of public order by someone.” *Policing is a branch of the administration, the jurisdiction of which extends into all the other branches of government and administration therefore it belongs to the general*

20 KMETTY Károly: *A magyar közigazgatási jog kézikönyve*, Budapest, 1905, 294–295.

21 TÓTH József: *Rendészetfogalom a nemzeti szocialista államban*, Eger, 1938, 167.

administration (§ 72), but the purpose of it is firmly described: to provide the general tranquility, security and safety system. The police are not positive, but protective, preventive activities. This is the reason why it differs from the professional public administration, where duties are positive."²² Magyary Zoltán has classified the duties of the police into the following main groups:

- The maintenance of public order, and its restoration when necessary.
- The maintenance of public safety.
- Political or State policing.
- Administration Policing.
- Judicial Police.
- The police of criminal justice.

The overlaps are clearly visible in the policing concepts formulated at the end of the 19th century and at the beginning of the 20th century, and we also see that the executor of law enforcement duties are mostly (but not exclusively) the police. After the Second World War due to known historical circumstances a complete overhaul of the Hungarian police and administration took place. Since in Hungary, after World War II, the political left came to power, policing was attributed to the product of capitalism-born, civilian law development in the previous era, therefore, in the period of socialism, the armed forces were organized according to the Soviet pattern. In the last years of the World War II policing was militarized, which after the war in the socialist years strengthened. The fact that in the period of socialism the duties of the secret police were referred to the police task system recall the bad memories during the Habsburg period, repeated, and thus the police again became unpopular amongst the citizens, and the majority of citizens showed negative attitudes toward the police. As a result, law enforcement scientists and researchers of administration only paid attention later on to re-wording and clarify the concept of policing. According to the Administration textbook published in 1980: *"In the socialist state policing belongs to public administration sector, intended to safeguard public order and public security and furthermore that the disciplines have not policing duties of law enforcement apparatus, but the sectoral bodies are entrusted with."* After the fall of the iron curtain Szamel Lajos went back to the roots and found that: *"policing can be defined as a state activity aimed at preventing the disruption of public order, preventing and restoring order directly after troubled, disruptive behaviour."*²³

Beside Lajos Szamel also Berényi Sándor created a permanent police concept in his textbook *The State Administrative Law* where he mentions: *"Law enforcement is an administrative activity, as such, constitutes an official activity, designed for public safety, in order to preserve public order governed by law, to maintain the contribution in restoring the violated law. Law enforcement is the oldest administration activity."*

The statement of Baraczka Róbertné-Szikinger István reinforces the administrative nature of policing as: *"Policing is defined as an administrative activity, which is responsible*

²² MAGYARY Zoltán: *Magyar Közigazgatás*, Budapest. 1942, 280.

²³ SZAMEL Lajos: *A rendészet és a rendőrség jogi szabályozásának elméleti alapjai Rendészeti tanulmányok* 1(1992), 7.

for protecting the public safety and public order and personal security of citizens, as well as assistance in restoring the violated order.”

Based on the presentation of the above concepts it can be stated that the police in the modern state are an administrative action which is intended to defend the society from arising danger from illegal human behaviour. In agreement of Géza Finiszter's book the 'Rights of the Police' and to confirm it as: *“This function of the management of law enforcement can be implemented through three functions:*

- prevention of hazards arising from unlawful human behaviour (presence, guide function);
- legitimate physical attacks in the reflection of the unlawful violence (armed forces function);
- the required preparatory process for government needs to enforce criminal law and the detection and investigation (law enforcement function).”

After the review of history we can see clearly that policing and law enforcement has changed significantly both in Europe and in our country during modernization it reached its present form. I find it interesting that research debates on policing have been conducted by mainly administrative law scholars and professionals and only occasionally has one come across the topic of policing from practicing and active police members among some popular writing. However, I consider this important that these discussions have been presented from the beginning because it has encouraged the development of policing and law enforcement and contributed to its identity. Thus, by the end of the 20th century in a number of countries in Europe Police Science formulated its need for independence, and the need to be separate from other disciplines, which has been fulfilled and implemented somewhere (see Hungary) and somewhere it is still pending. Finally, I think Laszlo Petrovich's words from 1884, are still current. “A good policeman is not born, he can be formed by education and training.”

Therefore, we have no other task than to continue to research our profession and the history of our science, and pass on our accumulated knowledge and experience to those who now between the university walls are trying to get to know the mysteries of Police Science.

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ABSZTRAKT

A magyar rendőrség történetének áttekintése

SALLAI János

A magyar rendészet kialakulása a 19. század második felében következett be, s nagy szerepet játszottak benne a német rendészet művelői, jogtudósai. A rendészettudomány elismerése a 2012-es MAB-döntés által realizálódott. A jelen tanulmány a magyar rendészet történetének főbb eseményeit tekinti át a 19. század második felétől napjainkig, így kívánva hozzájárulni a rendészettudomány etablációjához.

Kulcsszavak: rendészet, tudomány, történelem, törvény