United By Necessity: Conditions for Institutional Cooperation against Cybercrime

Jobel Kyle P. Vecino Charles and Louise Travers Department of Political Science University of California, Berkeley Berkeley, California USA jkpvecino@berkeley.edu

Abstract—Cybercrime continues to grow despite ongoing remediation efforts at the state and international level. The ease of access to commit cybercriminal activity beyond one's borders makes this an international issue. Examining the cooperative schemes utilized in intergovernmental institutions such as Europol illuminates possible conditions that encourage states to cooperate to fight cybercrime. Testing these conditions shows that the preexistence of an institution in a related issue area serves as the strongest driver of cooperation within an international institution against cybercrime.

Keywords—cybercrime; cybersecurity; Europol; institutions; international cooperation

I. INTRODUCTION

The problem of cybercrime continues to grow internationally; it is estimated to cost businesses an average of \$6 billion per annum globally through the year 2021[1]. Some states have greater capabilities to handle cybercrime than others. In some cases, multinational corporations (MNCs) and academic research institutions carry stronger cybercrime mitigation than some states. The ubiquitous nature of cybercrime also makes it onerous for any one state to fight cybercriminals alone. Recently, national law enforcement agencies began to participate in newly-formed international institutions focused on cybercrime mitigation; Europol serves as one example. What qualities or conditions drive states to cooperate within these institutions to fight cybercrime? I seek to identify these qualities or conditions in order to draw policy implications that will encourage further cooperation between states in the realm of international security.

This paper analyzes three contentions. First, that law enforcement agencies of different states are more likely to cooperate with one another if institutional avenues for cooperation already exist. This paper refers to this type of as "iterative cooperation." Second, law enforcement agencies are more likely to cooperate within an organization to remedy a lack of and inability to develop domestic technical expertise in fighting cybercrime. This paper categorizes this type of cooperation as "cooperation by substitution," in that the states utilize the institution's capacities in lieu of their own due to an inability to develop those capacities. Third, if the majority of cooperative actions through organizations such as Europol can be characterized as capacity building, states cooperate within the institution to establish self-sufficiency in anti-cybercrime operations. This paper refers to this type of cooperation as "cooperation for self-reliance." This paper capitalizes on the existence of Europol as a case study and data gathered from law enforcement officials and agencies throughout Europe to demonstrate that iterative cooperation through prior interactions represents the most important driver in what compels states to cooperate within an institution against cybercrime.

A. Europol and the European Cybercrime Center: An Overview

The European Union Agency for Law Enforcement and Cooperation (Europol) is a European Union (EU) agency headquartered in The Hague, Netherlands. It primarily concerns itself with assisting member states in fighting crime and terrorism by providing member state law enforcement agencies with a mechanism to facilitate secure intelligence exchange, primarily concerning internal security matters [2]. Europol also coordinates cross-border anti-crime and anti-terrorist operations with member states' law enforcement agencies and interfaces with outside partners, collects open-source intelligence (OSINT), intelligence procured from publiclyavailable sources, and creates analyses from both intelligence provided by member states and intelligence collected by the agency [3]. All participating states are members of the EU. Non-EU member state partnerships are either considered 'operational' or 'strategic'. Operational partnerships allow for information exchange between partners and Europol, including personal data. Operational partners include Australia, the United States, and the International Criminal Police Organization (Interpol) [4]. EU partners can access more of Europol's services than non-EU partners, with participating EU member states having the most access.

Member status in Europol is dependent upon state ratification of EU regulations relating to home and justice matters [5]. However, participation in the organization is noncompulsory for EU member states. Europol does not have the power to mandate participation; if one state decides to share its intelligence on cybercrime, it does not have the political authority to force all other member states to also share their intelligence. Therefore, many of the actions undertaken by Europol member states within the context of the organization are entirely voluntary. Policy plans known as European multidisciplinary platform(s) against criminal threats (EMPACT cycles) dictate Europol's policy objectives and help determine which targets the organization pursues and the kinds of operations it chooses to undertake [6]. Utilizing Europol as a platform for cooperation does involve adopting predefined policy procedures and objectives that may not line up with a member state's chosen policy objectives. However, states have the ability to influence these policy objectives if they choose to provide input into their formation and adoption [7]. This makes Europol a useful case study for analyzing conditions that lead to anti-cybercrime cooperation without some form of hierarchical enforcement.

This paper in particular focuses on participation within Europol's European Cybercrime Center (EC3). EC3 provides many of Europol's base intelligence sharing and analysis functions specifically for the purpose of fighting cybercrime [8]. With regards to technical provisions, the institution provides tools and technical analysis to aid in investigations against cybercriminal activity, such as malware analysis, technical capability development, and the ability to decipher passwords with some success [9]. EC3 may also provide member states and member state police agencies with funding as well as educational support in the form of trainings and seminars [10]. Finally, EC3 through Europol also holds relationships with private firms [11]. This paper refers to Europol and EC3 as the same entity (Europol) as Europol houses EC3, membership does not vary between the two, and Europol member states and EC3 staff have access to other Europol functions and vice-versa.

II. CONTEMPORARY WORK ON CYBERCRIME COOPERATION

A. In Search of a Definition

Before examining cooperation against cybercrime, the term 'cybercrime' must first be defined to shed light on the nature of the problem. Elaine Fahey writes that a "comprehensive definition of 'cybercrime' for EU law has not been found in secondary law" [12]. She goes on to utilize law professor Jonathan Clough's definition of cybercrime: "offences against computer data and systems but also more broadly, to include offences committed with the help of computer data and systems" [13]. Fahey establishes cybercrime as a subset of cybersecurity, alongside cyberterrorism, cyberespionage, and cyberwar. Because tools utilized for cybercriminal activity are so widespread, states are constantly challenged to mitigate cybercrime on a massive scale. Annegret Bendiek and Andrew L. Porter present a competing definition. They define cybercrime as crime in cyberspace including "theft of intellectual property, the extortion based on the threat of DDoS (Distributed Denial-of-Service) attacks, fraud based on identity theft, and so on" [14]. However, they complicate this definition by including a "cyber-vandalism" category separate from cybercrime, which includes hackers defacing websites on the internet. Under Fahey's definition, the latter falls under the umbrella of cybercrime. For the purposes of this paper, Fahey's definition is the most appropriate as it is all-encompassing, and Europol characterizes cybercrime similarly in its threat assessments [15].

B. Cooperative Schemes and Institutional Choice

Because Europol consists of many member states but holds no authority over those states, classifying Europol as an IGO is appropriate; however, discerning the type of IGO provides greater insights into how states are compelled to cooperate within its auspices. Using Felicity Vabulas's and Duncan Snidal's classifications, Europol could be described as a formal intergovernmental organization (FIGO), an organization established by a formal treaty (as a provision of the Treaty of Lisbon), consists of three or more members, and contains a formal secretariat to handle administrative duties [16]. Thus, cooperation that focuses on Europol is subject to the same conditions that drive states to cooperate within FIGOs generally.

Kenneth Abbott and Snidal cite that two features of FIGOs make them attractive to states: centralization and independence [17]. Centralization refers to the idea that institutional tasks are handled by a singular focal entity [18]. In the case of Europol, these tasks include technical analysis, intelligence dissemination, public-private partnership facilitation, and operation coordination. Centralization facilitates pooling these activities, as transaction costs and logistical overhead can be reduced through the use of the organization's staff, allowing all member states to both share some of the burden and reap the reward of Europol's technical expertise or intelligence reports

[19]. Abbott and Snidal also suggest centralization allows for easier management of joint production activities, which in this context could constitute anything from the production of common anti-cybercrime policy to coordinating joint anticybercrime operations [20]. The independence of Europol also allows for neutral distribution of funds and dissemination of intelligence through the organization. Both centralization and independence enable organizations to handle a large volume of work and manage complex operations, the benefit of which, given the scope and intricacy of cybercrime, cannot be understated.

But why choose to augment an existing formal institution instead of creating an institution de novo? Vinod Aggarwal provides a framework [21] later co-opted by Jupille and Snidal that prompts states to choose an existing institution to be the primary forums for cooperation to meet some goal unless no existing institution fits the issue area that cooperation is meant to address [22]. States can either utilize these institutions as-is or modify them in such a way that they meet the criteria necessary to address the new problem [23]. When EC3 was first established within Europol, the specialization of Europol's functions to deal specifically with cybercrime could be seen as an example of institutional change - a pan-European institution that focused on cybercrime analysis and mitigation explicitly did not exist but a pan-European institution that focused on crime in general did exist. Therefore, when the time came to establish an institution through which anti-cybercrime cooperation could be focused, it made sense to give an organization focused on cooperation against crime the responsibility to also facilitate cooperation against cybercrime. This is an example of nested substantive issue linkage, as cybercrime and crime at-large clearly display intellectual coherence. As an EU agency, states can see that greater cooperation against cybercrime within Europol's context also

works toward the larger goal of stability within the EU [24]. Since substantive issue linkage also leads to the creation of a stable issue-area and generally stable institutional arrangements [25], it is no surprise then that a formal institution was expanded as formal institutions are, by virtue of the overhead required for their establishment, very stable relative to other arrangements. Such an increase in responsibilities also befits the rational institutional design conjecture that as the severity of the organization increases [26]; given that cybercrime continues to grow in size and severity and every state remains susceptible to it, any organization assigned to support the mitigation of crime in general must increase its scope to include and specifically focus on cybercrime.

The aforementioned framework also suggests that Europol's use by states is dependent on whether or not it holds the status of a focal institution, an institution which is "widely accepted as a 'natural' forum for dealing with a particular cooperation problem" [27]. Decision costs and uncertainty about the world drives states to choose to utilize an existing institution and its current functions. As a state considers choosing from a group of institutions, augmenting a new institution, or creating a new institution, uncertainty increases with each of these choices, respectively. Therefore, the "use of a focal institution is usually the least costly resolution" and as long as "actors are risk averse," they "promote safer strategies of use and selection" [28]. The importance of being recognized as a focal institution is echoed by Benoît Dupont, who finds in his network analysis on international cybercrime cooperation that some organizations attempt to outmuscle each other due to duplicate focuses, producing separate and competing networks of cooperation with one network consisting of members exclusive from others [29]. As a collective action problem becomes more severe, institutions should attempt to be more inclusive in their membership [30]. Joining competing networks puts states at a disadvantage, as disparate membership across institutions weakens the ability of states to mitigate cybercriminal activity emanating from or in relation to a state within a competing institution, increasing the severity of the problem. Either most actors cooperate within one organization against cybercrime or risk feeding the problem. Thus, a key assessment for the iterative cooperation hypothesis focuses on whether states consider Europol the focal institution for fighting cybercrime.

C. Material Conditions for Cybercrime Cooperation

In contrast to the idea that the perception of an institution drives states to cooperate within it, states could be driven by more material concerns, which would support the hypothesis that states cooperate with Europol to fight cybercrime to compensate for functional shortcomings that it cannot develop on their own immediately (cooperation by substitution). Bjorn Müller-Wille presents a framework that argues that "expanded co-operation within [Europol] would make sense if it added value to the fight against crime in general" [31]. Such cooperation must either produce something state agencies cannot produce alone, generates better intelligence than any agencies could produce alone, or produces intelligence that state agencies cannot willingly or acceptably produce for political reasons [32]. Based on these criteria, a state should only be expected to cooperate within an international intelligence organization if there are tangible benefits such as intelligence that is not reproducible by any single state's crime or intelligence agencies. Müller-Wille surmises that most of the information passing into Europol was produced by state intelligence agencies and could theoretically be shared with other states without the use of Europol; hence, the advantages of expanded cooperation within Europol seem unclear [33]. States may also stray away from cooperating within an organization due to the centralization of power in a specific region or institution [34]. Taking these concerns into perspective leads to the belief that states would not engage in the usage of an international institution in a context where national crime agency functions are duplicated. However, this would only be the case if Europol's singular function was to provide intelligence sharing. As stated before, Europol also provides trainings, technical support and expertise, and pivotally, partnerships with private firms through publicprivate partnerships. The potential to access these functions and partnerships drives states to cooperate within Europol against cybercrime.

Bendiek and Porter characterize EU cybersecurity policy as a multi-stakeholder structure, emphasizing public-private partnerships. The authors express that anti-cybercrime policy must focus on bringing governmental and non-governmental actors as partners. They argue that the current division of responsibilities between civil defense, military defense, and law enforcement sectors to handle cybersecurity, and by extension, meant to tackle cybercrime, faltered. There exists far too much cross-pollination of threats and responsibilities for any one sector to handle these threats on their own [35]. In practice, this informs the nature of cooperation between entities against cybercrime – interactions between states and state institutions arise as these institutions allow for cooperation among these stakeholders. These interactions progress toward formalized institutions - the authors specifically cite the example of Europol as a step toward international coordination against cybercrime [36]. Because private firms are now responsible for large amounts of public-facing critical infrastructure in Europe including healthcare and energy, they are now targets for cybercriminals. Moreover, private firms such as ICT companies including Microsoft and Symantec have expertise and tools in fighting cybercrime that some states do not [37]. As such, their inclusion in cooperative networks is essential to organizations attempting to build effective anti-cybercrime cooperation [38].

There is some skepticism toward the effectiveness of public-private partnerships within the context of formalized agreements. Tatiana Tropina argues that states should continue to establish informal relationships with private firms, as the establishment of uniform compliance procedures could hinder the effectiveness of these private firms as partners against cybercrime [39]. Raphael Bossong and Ben Wagner disagree with Tropina and insist that formalized agreements support the effectiveness of public-private partnerships [40]. However, through the application of a cross-cutting analysis, they find that public-private partnerships are often only rhetoric and cooperation of this kind is not usually in the interest of private firms, therefore leading states to push toward regulating industry organizations [41]. Whatever the effectiveness of public-private partnerships and whether or not firms believe it to be in their interest to cooperate with states, it is clear that states hold the potential of having private partners in fighting cybercrime in high regard and therefore would be compelled to cooperate with an organization through which those relationships could be exploited. Thus, states that do not have a high level of rapport with domestic ICT partners seek to augment their lack of relationships by cooperating within an institution such as Europol, which does have established partnerships with prominent private ICT firms.

Domestically, a wide breadth and depth of non-governmental partnerships and ICT sector size expansion requires a large amount of time and investment to cultivate. Due to these costs, both an increase of partnerships and an increase in ICT sector size could be considered things states are unable to produce. Therefore they seek access to an institution with growing capability to fight cybercrime. This can be seen as another example of centralization. Previous work in rational institution design has shown that as uncertainty about the world increases, institutional centralization also increases [42]. As stated earlier in the discussion on the definition of cybercrime, all it takes is the use of a computer system in a malicious manner; anyone who can utilize a computer proficiently becomes theoretically capable of cybercriminal acts, which effectively increases uncertainty. Even if this capability is centralized within the institution itself and these capacities cannot be transferred over to the states, states can choose between having no capabilities and utilizing the institution's capabilities. Clearly the latter choice provides more utility. Thus, in establishing whether states cooperate within an institution with the intention of substituting an institution's capabilities for their own, it is first important to determine whether adequate domestic resources in the form of the technology sector and available partnerships exist.

D. Types of Anti-Cybercrime Cooperation

The significance of capacity building can be drawn from the choices states face when prompted with an institutional bargaining game. Aggarwal defines institutional bargaining games as bargaining games that consist of the types of goods that could provide some utility related to the issue area in question, the actors' individual situations, which include position in the international order, domestic forces, and elite preferences within the state, and the presence or absence of institutions where the bargaining would take place [43]. Institutional bargaining games result in different payoffs for different actors, which leads actors to attempt to strengthen their own positions [44]. When prompted with an institutional bargaining game, the actor (usually a state), can choose between three choices: they can attempt to alter the goods involved, they can alter their or their opponents' individual situations, or they can choose to alter or create a new institution. This section focuses on the second option, where states attempt to alter their individual situation. In this context, the bargaining game is cybercrime mitigation, the institutional context is Europol, and the goods in question are Europol's

operational support capabilities against cybercrime and its capacity building activities. States then cooperate within Europol in order to utilize the institution's capacity building abilities so that the state will eventually no longer need to utilize Europol's capabilities to fight cybercrime. Thus, this hypothesis supposes that states are cooperating to develop anti-cybercrime capabilities such that the states can eventually become selfreliant in the fight against cybercrime (cooperation for selfreliance). What distinguishes cooperation for self-reliance from the type of cooperation discussed in the previous section (cooperation by substitution) is that the former focuses on states building capacities in the immediate term through support from the institution the state is cooperating within, whereas the latter focuses on the use of the institution's capacities in lieu of the state's inability to develop similar capacities.

The framework to assess cooperation for self-reliance draws primarily from Benoît Dupont's work on the international governance of cybercrime. Dupont maps interactions between states and organizations in the context of cybercrime to specific classifications [45]. He provides five categories of anticybercrime cooperation [46]:

- Capacity Building
- Information Sharing
- Regulatory and Legal Activities
- Criminal Investigations and Intelligence Collection
- Lobbying

The overwhelming majority (74.5%) of initiatives he includes in his dataset involve capacity building, while information/intelligence exchange characterize 49% of these initiatives [47]. This finding also supports what some policymakers claim about cybercrime – capacity building remains the most important action in cybercrime mitigation [48]. However, Dupont professes that these connections do not show the intensity of the cooperation between states and NGOs in fighting cybercrime or the intention behind their cooperation. He also goes on to state that data focused on methodologically similar bilateral initiatives involving cooperation under Europol would produce significantly different results [49].

Since this paper focuses on cooperation against cybercrime within Europol, it is prudent to test Dupont's findings against this gap in the data. If states are driven to cooperate within an international organization primarily by a desire to develop their own abilities to fight cybercrime, then Europol's primary functions in facilitating intelligence sharing and providing operational coordination and support should not factor into cooperative actions against cybercrime heavily. In other words, a confirmation of the cooperation for self-reliance hypothesis suggests that states want to and generally seek to go it alone in the fight against cybercrime, and most cooperate within institutions in order to reach a point of independence. Thus, they are no longer affected by the threat of cybercrime as they were before they began cooperating within the institution. In the language of institutional bargaining games, at the point of self-reliance, states successfully changed their individual situation and therefore their payoff structure within the game. While this assertion runs contradictory to the operational nature of Europol's activities, it is nevertheless important to assess this hypothesis in order to ascertain whether the desire to build capabilities effectively drive state police agencies to cooperate within institutions against cybercrime.

III. METHODOLOGY

This paper tracks a different variable or set of variables for each hypothesis. For the first hypothesis, iterative cooperation, I utilize interview responses and policy data to show whether or not Europol is seen as a focal institution. For the second hypothesis, cooperation by substitution, I utilize a combination of survey data and interviews to measure how much interaction states have with domestic ICT partners. I also measure the ICT sector size in each state by measuring ICT employment as a percentage of total employment within each Europol member state and compare each country's differential to the mean percentage in order to ascertain the size of each state's ICT sector relative to a central tendency. A percentage of ICT employment is utilized to estimate ICT sector size as opposed to absolute employment numbers in order to normalize the size of each state's ICT sector relative to other member states; utilizing absolute employment numbers results in misleading data due to the population differentials across states. These two variables measure both the reality of interactions and potential for partnerships that state law enforcement agencies can have with private firms, and therefore characterize whether a state needs to act through Europol to interact with private firms and NGOs or seek out foreign technical expertise. Finally, for the third hypothesis, cooperation for self-reliance, I measure several variables including the amount of funding a state police agency received and the amount of trainings requested from Europol in order to capture the amount of interactions states have with Europol that can be categorized as capacity building. Also included is data collected from interviews which categorize the frequency and importance of capacity building activities (namely trainings and funding) from the point-of-view of Europol officials.

The primary limiting factor to this methodology is the lack of data available from state law enforcement agencies on their activities within Europol. Of the 28 member states that were asked to participate in the qualitative survey, only one (the United Kingdom) gave responses. Of the 28 member states that were asked to participate in the quantitative survey, only one (Denmark) responded. The United Kingdom and Germany both purported to not have the necessary information to answer the quantitative questionnaire. This makes it incredibly difficult to draw strict conclusions from these findings as the lack of data limits the variance required to validate the results. Nevertheless, even with the lack of data, valuable insights can still be gleaned from the results collected.

IV. RESULTS

The following section discusses findings from interviews conducted with Europol's Head of Strategy Philipp Amann, an interview conducted with the United Kingdom's National Cyber Crime Unit (NCCU), and survey data collected a questionnaire given to Denmark's National Cybercrime Center (NC3). The survey consisted of nine multiple choice questions focusing on various topics including funding from Europol for anti-cybercrime operations, frequency of interactions with Europol in the context of anti-cybercrime operations, frequency of interactions with domestic and international nongovernmental technology partners, and one free-response question focusing on an agency's comparative capability to Europol's. The evidence also includes data collected from EU policy documents.

A. Identifying Europol as a Focal Institution

To measure whether Europol is seen as a focal institution, a combination of data was collected from policy analyses, interviews, and survey data. The EU's overall cybersecurity strategy cites Europol "as the European focal point in the fight against cybercrime" [50]. The strategy explicitly assigns the responsibility of facilitating anti-cybercrime cooperation among states and cooperation between states and private or non-governmental stakeholders to Europol [51]. These statements leaves no ambiguity that Europol carries the distinction of being considered a focal institution at least from the point-of-view of the EU itself. By extension, Europol is undoubtedly seen as a focal institution against cybercrime from the point-of-view of many policymakers.

From the perspective of the institution, Europol does not directly inform a member state that their protections against cybercrime require improvement unless the state in question asked Europol for an assessment [52]. Member states participate, including sharing open source reports, malware, and other forms of data, on a voluntary basis [53]. Should a member state choose not to share their intelligence. Europol cannot force a state to share that intelligence. As for reasons why a member states would not cooperate with Europol, member state law enforcement agencies are often either unaware or ignore the resources Europol can provide [54]. In fact, Europol officials are aware that member states have law enforcement agencies that are producing tools and materials that the organization has already produced [55]. Europol officials see this as law enforcement agencies across member states being unconscious of what Europol can provide those agencies and therefore do not reach out to the institution as much as they could [56]. Survey data collected from the Danish National Cybercrime Center (NC3) reinforces this supposition; the center remarked that only up to a fifth of anti-cybercrime operations in the most recent year involved direct operational support from Europol [57].

While the perceived lack of use from state police agencies suggests that states do not view Europol as a focal institution for cybercrime mitigation, further elaboration about the nature of the problem of cybercrime actually suggests that Europol is viewed as a focal institution for cybercrime mitigation by member states. In a comment at the end of the survey, NC3 stated that "the resources and capability of the member states...holds back the common process. Cyber [crime] has to be prevented and fought from an international perspective" [58]. Furthermore, rather than pursuing policy-based prescriptions to bring agencies into the fold, Amann suggests that Europol needs to do a better job of advertising and outreach to law enforcement agencies [59]. The choice to attribute the perception that Europol lacks usefulness to member states to lack of outreach rather than tying it to a need for hierarchical structure indicates either an unwillingness to establish a more hierarchical structure or a belief that a more hierarchical structure is unnecessary. Even with the voluntary nature of state crime agencies' relationship with the institution, Amann remarked that the member states do utilize Europol effectively [60]. This statement, coupled with the statement from NC3 regarding the need to fight cybercrime from an international perspective, leads to the conclusion that the international nature of cybercrime gives states the impetus to place a premium on platforms for international anti-cybercrime operations such as Europol.

B. Measuring Agency Use of Europol to Substitute Capacities

To assess whether Europol is used by states to substitute a lack of capability, a combination of interviews, survey data, and domestic ICT employment sector size data is utilized to determine whether or not a state's law enforcement agency both perceives their available capabilities to be up to par with Europol and whether the potential for increased partnerships and capabilities exist. A measurement of these variables illustrate whether states perceive Europol's available capabilities and partnerships within the context of mitigating cybercrime are more valuable than their domestic capabilities and partnerships.

Europol's operations consist of three primary categories. These categories include operational support, including intelligence sharing, analysis, and on-the-ground support, education and awareness training, and coordinating or taking part in multilateral/joint actions. Intelligence sharing serves as the primary day-to-day work that Europol undertakes [61]. Much of this intelligence sharing occurs on the Secure Intelligence Exchange Network Application (SIENA), a platform through which law enforcement agencies from Europol's member states as well as Europol officials and third-parties with cooperation agreements with Europol can communicate and disseminate intelligence to other partners or to Europol itself [62]. Europol also conducts malicious software (malware) analysis through the Europol Malware Analysis System (EMAS) [63]. Member state agencies can submit a piece of malware and Europol employees can conduct forensic analysis on the malware to produce conclusions and support a member state in their investigation or an active operation. Member states have access to the Digital Forensics and Mobile Laboratory, which mines data from hard drives or mobile phones, and Europol's password decryption platform

[64]. Lastly, Europol interfaces with outside partners including Interpol and third-party states, as well as non-governmental partners including private firms, accepting information from them including Internet Protocol addresses as well as consulting non-governmental partners in an advisory capacity

[65]. When asked whether NC3 could claim equivalent anticybercrime capabilities to Europol, the agency responded "No"

[66]. The NCCU stated that capabilities across member states varied widely and at times bilateral interactions with partners with similar capabilities resulted in more fruitful interactions; however, bilateral relationships lacked the ability to pool resources from other member states or to construct the large picture pertaining to the issue at hand [67].

Europol also maintains relationships with public-private partners for operational and advisory purposes. Private firms and NGOs provide Europol with intelligence including IP addresses of potentially compromised or potentially suspicious computers [68]. Private firms and NGOs are also utilized in an advisory capacity through membership with an advisory board [69]. Most member states are thought to hold their own relationships and partnerships with private firms and NGOs, but these are not kept track of by Europol. Thus, the relationship between member states and EC3 is not at all hierarchical despite the fact that institution policy drives the direction of the relationship [70]. The NCCU remarked that business costs and potential to negatively impact reputation often stand in the way of forming partnerships with private firms. However, private firms seem to be willing to share more information on some types of attacks, such as DDoS attacks, due to lower reputational risks in comparison to attacks that disclose user data [71].

While all of this illustrates that Europol has considerable capabilities that member states can take advantage of, and that these capabilities encourage states to engage in cooperation within Europol against cybercrime, survey data illustrates that member states might already have comparable capabilities. Table 1 shows the results of a survey answered by NC3 with respect to the proportion of interactions the agency has with ICT partners both through and outside of Europol, as well as the Danish ICT sector size compared to the average Europol member state sector size.

Danish Cybercrime Interactions*		
Percentage of private sector partners who also have partnerships with Europol	1-20%	
Percentage of total interactions with private technology partners through Europol	1-20%	
Percentage of total interactions with technology partners that are with domestic partners	41-60%	
Percentage of total interactions with EU state police agencies that also occurred through Europol	21-40%	
2016 national ICT sector employment percentage compared with average Europol member state 2016 ICT sector employment (SD = 1.2)	+0.6%	

TABLE 1

*All from 2017 unless otherwise noted

These results indicate that the overwhelming majority of cybercrime operations in the Danish case do not require direct operational involvement from Europol. Denmark clearly has above-average domestic technology partnerships and available domestic technological prowess; most of NC3's interactions with private partners occurs outside of Europol and around half of these interactions are with domestic private firms which eliminates the need to interact with them through an international organization in the first place by virtue of their

domesticity. Most interactions with other Europol member states' police agencies occurs outside of the organization. Even the Danish ICT sector size is one-half standard deviation above the average Europol-member ICT sector size – a medium-sized difference from the average Europol-member state [72]. These results also indicate that there exists a potential for greater utilization of domestic partnerships and technical expertise compared to other member states.

C. Measuring Agency Use of Europol to Build Capacity

To measure the frequency and importance of capacity building activities to Europol, it is important to first know Europol's available capacity building activities. The dissemination of trainings, funding, and technical tools can be considered capacity building activities. Much of the institution's educational outreach and operational support focuses on establishing a baseline level of expertise among member states to ensure effective cross-border cooperation [73]. Europol also provides funding to member state agencies to implement policy objectives; this funding can also be used to implement joint projects international projects proposed by member state agencies [74]. Free anti-cybercrime tools such as forensic analysis tools developed through the FREETOOL project are also provided to member states [75]. Trainings to utilize these tools are provided through Europol.

Europol officials find that that capacity building activities hold relatively low frequency and importance in comparison to other Europol functions. Amann ranks the following cooperative actions against cybercrime in order of importance from least to greatest: education and prevention outreach, intelligence sharing and operational support, and joint actions and operations. Amann also ranked the three types of cooperation in terms of frequency from least to greatest: education and prevention outreach, joint actions and operations, and intelligence sharing and operational support.

With these results, Dupont's finding that capacity building makes up the overwhelming plurality of cooperative interactions against cybercrime [76] comes under scrutiny. This complicates the cooperation for self-reliance hypothesis. If capacity building only includes education and prevention outreach, then in both metrics of importance and frequency, capacity building is seen as both least important and least frequent. If operational support (in particular, intelligence sharing and analysis) can be categorized under capacity building, then capacity building becomes both most important and most frequent [77]. However, operational support does not include common actions associated with capacity building, such as education. Admittedly, Amann emphasized that the difference in importance between these three actions are minimal and the relationship between the three is close and each type of cooperation is often tied to another type of cooperation [78], as did the NCCU [79]. Sometimes officers are sent from member state crime agencies to work on specific cases if necessary [80]. There exists ample opportunities for states to request operational support, although intelligence sharing does make up the bulk of the day-to-day work. However, capacity building activities seem to be in sparse supply.

Results from the questionnaire given to member state police agencies also seems to indicate that capacity building does not characterize the cooperation within the organization. Survey responses from NC3 with respect to the agency's interactions with Europol strictly pertaining to capacity building activities shows that the agency does not utilize Europol very much to build capacity: the agency requested no funding and only two training in the most-recent fiscal year.

These figures correspond accordingly with the statements from Europol officials on the frequency of cybercrime-related trainings. It must be noted that Europol does not provide many trainings per year [81] and therefore numbers pertaining to trainings may be relatively low no matter what, but the amount of funding requested is telling. Funding can be used to develop new technologies, hire new staff, provide trainings, and invest in new projects, all of which are clearly capacity building activities. Given that the previous sections have illustrated that NC3 finds cooperation with Europol incredibly important in fighting cybercrime, the fact that the agency requested no funding in the 2017 fiscal year shows that capacity building must not matter much in the calculus of that state's national law enforcement agency.

V. ANALYZING CONDITIONS FOR COOPERATION

The first hypothesis is tested by demonstrating whether states viewed Europol as a focal institution in cybercrime mitigation; if states considered Europol a focal institution in cybercrime mitigation, then by Aggarwal's framework, iterative cooperation drives cooperation within Europol against cybercrime. When the decision was made to expand into the realm of cybercrime, Europol's pre-existing structure may have given it the ability to establish its capabilities and reputation to a point that supersede the capabilities and reputation of member state police agencies. Europol's preexistence is an important detail to note; Europol was established in 1998 but did not establish a dedicated cybercrime operations unit until 2013 [82]. The establishment of the organization predates many of the member-state cybercrime agencies, only some of which, such as Greece, predates the establishment of Europol [83].

While Europol's dedicated cybercrime center postdates many of the member state agencies' own cybercrime centers, states do not seem to feel the need to deviate from Europol's pre-established framework. If there already exists an organization that can serve as a niche for a form of cooperation, as in the case of Europol and EU-wide crime response, states require less overhead to be convinced to engage in new forms of cooperation. The remark made by the NC3 indicates that Europol's known reputation and ability entices states to approach the organization with some degree of confidence. This lines up with the perception that Europol is a "focal" institution against cybercrime.

In testing the second hypothesis, ICT employment data for each state was collected alongside survey data that measured a state police agency's involvement with domestic ICT partners (Table 1). If a state's ICT sector size was small compared to the average Europol member state ICT sector size or the state police agency had weak involvement with ICT private firms

and NGOs, then that state should be more driven to cooperate within Europol. When combining the ICT employment percentages compared to the average EU employment percentage, the Danish response to the survey was illuminating. According to the results, Denmark had above-average ICT employment as a percentage of total employment compared to other Europol member states [84]. Only up to 20% of NC3's interactions with non-governmental technology partners occur through Europol [85]. Around half of the agency's interactions non-governmental with technology partners occur domestically, which does not require interaction with Europol to access [86]. Prima facie, all of these data points suggest that such a state should be less dependent on Europol's potential opportunities for access. Nevertheless, it seems that even a relatively small need to fight potential cybercrime threats internationally results in a willingness to engage in cooperation within the institution regardless of the amount of problems those activities can solve. While Denmark did not have a small ICT sector size relative to the average Europol member state sector size and had frequent interactions with technology partners outside of Europol, this did not change NC3's professed willingness to cooperate within the institution.

Furthermore, NC3's perception that its capabilities do not match Europol and the survey results are at odds. It seems clear from the data that the idea that Europol needs to provide most of the necessary partnerships to member states to encourage cooperation does not hold water. Again, this might point to state and state police agencies' views on the nature of the problem of cybercrime – this is an issue area that agencies perceive that there is no limit to increased support and expertise, but this increased support and expertise does not have to come with wholesale substitution of Europol's cybercrime mitigation capabilities with domestic ones. Therefore while it may allow states to increase their abilities in fighting cybercrime, cooperation in the name of substituting capabilities only provides marginal improvement in some cases and serves as secondary driver toward state involvement within Europol than a primary one. This leads to the conclusion that an intrinsic property of the problem, the international nature of cybercrime, serves as a primary motivator behind states' willingness to cooperate within an institution to fight it, and other potential avenues for mitigation, specifically domestic avenues, are not enough to make a state's police agency feel secure.

Testing the third hypothesis involves identifying whether international cooperation within Europol focuses on capacity building; if a large proportion of cooperation does focus on capacity building, then states are driven to cooperate within the institution to build a sustainable domestic anti-cybercrime apparatus. Each cooperative action as noted from the interview with Amann is classified according to Dupont's categories [87] to ascertain whether international cooperation against cybercrime focuses on capacity building.

Table 2 maps the categories Dupont presents in his work to the types of operations available through Europol. Clearly, these operations do not cleanly fall into the different categories. For example, as an open-source (free-to-use) project, the development of the FREETOOL project can be considered

capacity building to allow member state police agencies to augment their cybercrime analysis capacity. In contrast, tools such as EMAS are only useful if other states share their malware through the system. However, both allow member states to build up their intelligence concerning malware. Furthermore, Amann characterized the use of such tools not as capacity building but as operational support, placing technical forensics analysis tools under the category of law enforcement operations [88]. This overlap makes it difficult to provide a discrete category for each type of cooperation. Given that intelligence sharing makes up most of Europol's day-to-day work, it seems reasonable to conclude that exchange of information trumps all of the other categories in frequency. This conclusion is not necessarily predicated upon the inclusion of technical forensics analysis tool development, as SIENA still constitutes the bulk of intelligence report sharing. Therefore, if capacity building only encompasses funding, education, and capability development, then capacity building comes in third behind information exchange and law enforcement operations, respectively. Since capacity building only makes up a relatively small amount of cooperative measures that occur within Europol, cooperation for self-reliance seems to be a weak driver in encouraging states to cooperate within Europol against cybercrime.

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Europol Classification of Anti-Cybercrime Activities		
Category of Action	Action/Operation	
Capacity Building	 Trainings and educational services Monetary funding Technical forensics analysis tool development 	
Exchange of Information	 Intelligence exchange through SIENA Technical forensics analysis tool usage 	
Law enforcement operations	 Investigations supported by Europol personnel Joint investigations between member states Technical forensics analysis tool usage 	
Lobbying	Ability to influence Europol policy objectives	

Based off of these findings, it is reasonable to posit that while capacity building does play an important role in anticybercrime cooperation, states may not focus on it if an organization is capable of facilitating more direct means of engaging potential threats. NC3's survey responses (Table 1) are very telling in this regard. The center did not request funding for anti-cybercrime operations in the 2017 fiscal year. However, the center also noted that up to 40% of interactions with other EU member-state crime agencies required interaction with that agency through Europol and up to 20% of anti-cybercrime operations required direct involvement from Europol [89]. Despite neither of these making up the majority of their respective types of operations, they still occur at regular enough frequency to be considered the primary work of Europol. Based on this evidence, the desire to build capacity only constitutes a minimal to moderate effect on encouraging states to cooperate within an institution to fight cybercrime.

One confounding variable that arose from the data collected through interviews and surveys is the cultural role of police in cybercrime investigations. Amann suggested that several Europol member states have different cultural attitudes toward policing that affect their willingness to cooperate internationally with other law enforcement agencies or with non-governmental partners. He brought up the example of the Netherlands, where many of the banks have close partnerships with anti-cybercrime initiatives and policing agencies; Dutch banks interface with anti-crime task forces to disseminate information with other banks and law enforcement representatives in the same room [90]. These partnerships may not be tolerated by citizenry of other member states due to cultural and social views on privacy and police activity in those member states. The variance in legal frameworks across these countries also factors into whether these types of cooperative relationships are possible. The NCCU noted that this is a large challenge in working within the institution [91].

Another confounding variable that was brought up in the interview was the size of the country's bureaucracy. Citing Estonia, Amann noted that the country itself is small in population and does not encounter the same amount of bureaucratic complexity that a larger member states such as Germany or France. The lack of bureaucratic complexity leads to a reduction in formal structures compared to larger countries, leading to a smaller amount of people taking on a larger amount of responsibilities. This increases the responsiveness between government officials of these smaller countries and Europol at the cost of higher barriers to establishing relationships with Europol when government officials first take office [92]. In contrast, the Netherlands contains many formalized structures for partnerships with Europol which creates a different approach and platform for cooperation. Bureaucratic turnover also creates problems. The constant turnover of senior management of Europol member states leads to a lack of institutional memory among government staff and policymakers [93]. This turnover may result in a new staff that does not know how to harness Europol resources effectively and/or efficiently.

VI. CONCLUDING THOUGHTS AND NEXT STEPS

Given the evidence presented from this piece, the strongest driver is iterative cooperation. Europol's prior space within the realm of international police agency cooperation seems to have spurred states to engage in cooperation with other states through the organization and with Europol personnel themselves even if states established a cybercrime unit that preexisted EC3. Contributing to this willingness to cooperate also seems inherent to the problem of cybercrime; that is, effective mitigation must be international in scope. Cooperation by substitution and cooperation for selfreliance on the other hand, are weaker drivers. As seen in the case of Denmark, an above-average ICT sector size in terms of percentage of employment does not lessen the value that its cybercrime unit places on Europol's utility in fighting cybercrime. Observations of the types of support that Europol gives also seems to focus readily on operational support and information exchange, effectively supplanting capacity building as the most frequent and most important type of interaction. Again, it seems that reputation and ability play directly into how states act within Europol. The organization's structure and services lends itself to direct support of law enforcement operations. The ability to provide known, effective services can be construed as a precondition to states cooperating within an IGO on an operational basis.

More data from other Europol member state police agencies must be taken into account before drawing further policy implications. The current version of this project only observes two states which both have higher-than-average technology sector size in terms of ICT employment percentage

[94]. The next step would be to see if data obtained from member states with lower-than-average technology sector size provides similar results to those of the states examined so far. Furthermore, there exist no competing IGOs or NGOs that have codified intelligence-sharing agreements and anti-cybercrime capabilities to the extent that Europol has. Therefore, it is difficult to discern if the organization is seen as a focal institution due to a lack of available competition. The lack of a competing agency without Europol's reputation cannot be tracked to measure its comparative utilization, weakening the ability to establish a direct causal link between

Europol's existence and its image as a "focal" institution.

Nevertheless, the preconditions of reputation and known competence must be taken into account as an important consideration should IGOs and NGOs want to encourage international members to cooperate, whether against cybercrime or some other matter of international security. In his interview, Amann summed up the biggest factor in one word: "trust". It is not just trust in one's partners, however; it is trust that cooperation leads to successful operations. This indicates that the overhead necessary to convince states to cooperate is very large, but once that overhead is met, states no longer need much convincing.

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