

# The Dutch forensic psychiatric system

## Admissions and capacity

### Summary

From the beginning of this decade the Dutch forensic psychiatric system (the TBS) suffers from an increasing shortage of capacity. This is most clearly expressed by the growing number of inmates in Dutch detention centres who have been committed to TBS treatment, but cannot be admitted to a TBS clinic because of lack of capacity. In recent years the average waiting period for this increasing number of detainees has risen to more than a year.

This development has occurred in spite of the fact that the physical TBS capacity has doubled to more than 800 beds since 1990, while on the other hand the criteria for the application of the TBS measure have been sharpened. Since the last reform of the relevant legislation and sentencing practices, the TBS measure has been restricted to psychologically disturbed dangerous perpetrators of serious criminal violence. Earlier departmental estimates of adequate TBS capacity in the last years of this decade were obviously inadequate. This gives cause to questions on the adequacy of the prediction models that have been and are still being used for planning the (future) development of the TBS system.

The increasing demand for TBS capacity has also stimulated the ongoing debate on the relations between the main social institutions relevant for the control of problematic behaviour on the border of insanity and delinquency. Recently criminal justice system authorities have expressed the idea that penal law is increasingly being misused for mental health problems that should have been taken care of by the public health system. In their thinking the forensic psychiatric system might be improperly used as a dustbin for the mental health system, in which unmotivated and troublesome mental health patients are being dumped. This might be a consequence of recent developments in mental health care, aiming at a speedy return of mental health patients into the community, stressing medical treatment and short (outpatient) psychotherapy, instead of long-term custodial care. Due to such processes it is feared that there may be insufficient mental health alternatives for psychologically disturbed offenders, both at the TBS clinics front door and at the back door (after an initial period of forensic psychiatric treatment).

Within this context the study focuses on two general questions. Is there a tendency of continuous relative increase of the TBS segment within the general criminal justice system? And what explanations can be given for the recent expansion of the TBS population?

Reviewing the historical development of the TBS population in absolute numbers there appears a wave-like pattern with a peak in the early sixties and an all-time low in the mid-eighties. The strong increase since then may be seen as a reflection of the even stronger increase of the general detention population, which has all but tripled since 1980. However, the most recent developments do reveal an accelerated increase of the TBS population. Since 1993 the yearly number of delinquents being convicted to TBS has doubled to more than 200, while the yearly number of persons being discharged from TBS treatment keeps lagging behind. This last development reflects an increase of the average duration of (intramural) treatment. The recent increase of the TBS population is obviously a product of both developments.

Theoretically the recent increase of the number of convictions to TBS may be explained by the following factors:

- more dangerous and disturbed offenders;
- less stringent criteria for the application of this measure (i.c. greater medicalisation);
- more forensic psychiatric selection capacity in the early stages of the selection process;
- less public mental health alternatives for dangerous and disturbed offenders.

To evaluate the plausibility of these factors relevant registrations have been analysed and open interviews with legal, medical and policy experts in the field of forensic psychiatry have been conducted.

Criminality statistics show a more than proportional increase of criminal violence during the last decade. The fact that civil and penal law commitment to treatment of juveniles has increased steeply, may be of special relevance for (future) developments within the TBS sector. Almost all experts consider the recent increase of TBS convictions primarily as a consequence of a basic socio-cultural development characterised by partially disintegrating tendencies that bear heavily on certain vulnerable population groups at the bottom of society. The experts see the increase in TBS as an autonomous social phenomenon, rather than as an artefact of augmented selection processes or wider selection criteria. Especially the judges and prosecutors among the experts were confident that growing numbers of TBS convictions do not reflect a mitigation of seriousness of the average TBS cases, as might be expected in the case of stronger medicalisation in the field of criminal justice.

The results of this study suggest that expanding the forensic psychiatric system will be inevitable if the typically Dutch policy of sending cases of diminished criminal responsibility into treatment is to be maintained. In practice this concerns offenders with primarily personality disorders. Because of the nature of their condition these persons are often regarded as unsuitable patients for the civil mental health system. Solutions may be found in establishing more specialised forensic psychiatric (halfway) facilities outside the high-security TBS system. Such facilities can offer the necessary residence and supervision to enable TBS clinics to limit the average duration of intramural treatment.

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**Instroom en capaciteit in de tbs -sector: geregistreerde gegevens en inzichten van deskundigen**

*Ed. Leuw*

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