

Summary

Facts and figures about registered drug-related crime; Background study to the justice section of the National Drug Monitor: Annual Report 2002

The central issue addressed in this study is the nature and scale of registered drug-related crime and the response of the criminal justice system to that crime in the Netherlands. A summary was recently published in the National Drugs Monitor's fourth annual report; the report for 2002. For the first time this annual report contains a justice section. The details were promised to the lower chamber of parliament. 'Facts and figures about registered drug-related crime' provides an extensive statistical survey of the efforts of the police, the justice system and the judicial care and treatment of addicts.

The report was commissioned by the Directorate General for International Affairs and Immigration / International Criminal Law Affairs & Drugs Policy Department (DGIIV/DISAD) of the Ministry of Justice. The study was written by the Research and Documentation Centre (WODC) of the Ministry of Justice and the Research and Analysis Group of the National Criminal Intelligence Service of the National Police Agency (O&A/dNRI/KLPD).

Drug-related crime can be divided into two (partly overlapping) components:

- *Drug crimes*, as defined in the drug laws (the Opium Act, Abuse of Chemical Substances Prevention Act) or relating to those drug laws (organised crime, 'money laundering' etc. in combination with drug crimes); and
- *Crimes by drug users*: the crimes committed by drug users and addicts. It should be noted that there is not necessarily any causal link between addiction and the commission of crimes. In other words, addiction does not necessarily precede the commission of crimes. In so far as drug users commit drug crimes there is an overlap between the two components.

This study covers only the drug-related crime that has been solved. Identifying the share of drug-related crime in registered or overall crime is beyond the scope of this study. The results of the study cannot therefore be extrapolated to total (registered) crime. It would only be possible to provide an indication of this with estimates produced by models on the basis of better information.

1 Scale of drug-related crime

The general conclusion of this study is that the drug problem, in as far as it takes the form of drug-related *crime*, unmistakably imposes a heavy strain on the resources of the police and justice. All the signs point in that direction:

- The majority of investigations into the more serious forms of organised crime focus on drug crime.
- One in twenty criminal cases involves an offence against the Opium Act.
- Persons convicted under the Opium Act place a severe strain on prison capacity. One in eight of the (partially) unconditional custodial sentences by irrevocable

judgment involves an offence against the Opium Act. Together, they account for roughly a quarter of the total number of years of imprisonment unconditionally imposed each year.

- At a rough estimate one in seven to eight of the slightly more than 230,000 criminal cases dealt with each year involves a drug user.
- At a rough estimate half of all unconditional custodial sentences are imposed on drug users.

2 Nature of drug-related crime

The findings of this study concerning the nature and scale of drug-related crime make it possible to broadly distinguish between three main types of drug criminals and the profiles of their crimes. The first type are offenders who commit (more serious) forms of organised crime. This category consists of offenders who belong to criminal organisations involved in the production, transport and trade in drugs. These drug-related activities may be accompanied by other criminal and (semi-) legal activities.

The second main category of criminals also consists of offenders against the Opium Act. However, this category seems to differ from the first in its relative lack of involvement in organised drug crime. This category appears to consist of a diverse group of different types of offenders: drug tourists and smugglers, dealers and couriers of small quantities of drugs. A substantial number of those guilty of offences against the Opium Act are themselves drug users.

The third main category of offenders is a group of long-term drug users who are frequent recidivists. There are several thousands of offenders in this group. They are highly active criminals and primarily commit crimes against property.

2.1 Organised crime

- Organised crime involves offenders who operate in (international) criminal organisations and are engaged within these organisations in (more serious) forms of organised crime.
- The majority of investigations into more serious forms of organised crime are targeted at drug-related crime: production, transport and trade in drugs.
- A minority of the organisations investigated produce drugs. To a certain extent, the production of drugs seems to be separate from their transport and trade. An exception to this is synthetic drugs.
- A substantial number of the criminal organisations that engage in more serious forms of organised crime are engaged in activities involving both hard drugs and soft drugs.
- Drug-related organised crime can also be observed in combination with other criminal activities.

- Dozens of people are convicted each year for participation in a criminal organisation in connection with offences against the Opium Act and sentenced to lengthy custodial sentences.
- A significant number of the murders and other homicides in the Netherlands are directly linked to the drug trade.

2.2 *Offenders against the Opium Act*

The difference between this category of offenders and the offenders who operate in criminal organisations seems to be the relatively low level of involvement in organised drug crimes. The degree of involvement can range from providing practical assistance for criminal organisations to buying illegal drugs as consumers. There are various indications of the existence of a number of sub-categories among offenders against the Opium Act. The available information produces a mixed picture but for some sub-categories the contours, partly overlapping, of a profile are emerging to a certain extent.

Offenders against the Opium Act appear to form a heterogeneous group that includes drug tourists and (small scale) smugglers, dealers, couriers and drug users. Suspects of offences involving hard drugs differ from suspects involved with soft drugs. The share of recidivist offenders against the Opium Act who specialise in offences against that act, in other words who commit few if any other offences, does not seem to be very large. These (partial) profiles should be worked out in more detail through further research.

- *Hard versus soft drug suspects.* Suspects of offences involving hard drugs seem to differ in various respects from suspects of offences involving soft drugs. For example, suspected hard drug offenders are concentrated mainly in the large cities, soft drug suspects in the medium-sized cities. Suspected soft drug offenders are more often female and are on average some years older than suspects of hard drug offences. An exception to this is suspects of soft drug offences who live abroad, who are the youngest of all. Suspected soft drug offenders are more often born abroad. Finally, measured in terms of the number of offences in their prior registered criminal history, suspects of hard drug offences are more active criminals than soft drug suspects.
- *Generalist versus specialist.* More than 40% of offenders against the Opium Act come in contact with the authorities again within four years. However, the percentage of offenders against the Opium Act that are charged with a similar offence within four years is significantly lower at 20%. Apparently there is no such thing as a large group of specialists, offenders that confine themselves mainly to offences against the Opium Act.
- *Drug tourists and small-scale drug smugglers, dealers and couriers.* This group of suspects appears to consist in part of offenders who live outside the Netherlands and who are arrested at the borders of this country for importing or exporting drugs. A significant number of people in this group, it appears, have no criminal background judging by the criminal records. In any case, they have no known criminal record in the Netherlands. Their principal offences are therefore

offences against the Opium Act. But some of this group are Dutch people who were imprisoned abroad for a drug crime.

- *Production, transport, trade and possession for personal use.* One in seventeen cases brought under the Opium Act concerns the production of drugs, one in five concerns transport and two in five concern trade. The remainder concern possession for personal use. Cases in which suspects are prosecuted for transporting drugs mainly involve soft drugs. Prosecutions for drug dealing mainly involve hard drugs.
- *Offenders against the Opium Act who use drugs.* A significant share of the people arrested each year for offences against the Opium Act are themselves drug users, primarily of hard drugs.

2.3 *Recidivism among drug users*

The picture with respect to registered drug-related crime is dominated by a group of recidivist offenders who use drugs.

- The vast majority of suspects who use drugs take hard drugs, sometimes in combination with other substances such as soft drugs, medicinal drugs or alcohol. Problem users of soft drugs form a small minority of the total number of drug-using suspects. They account for a smaller share of the total number of suspects than alcoholics.
- The group consists of several thousands of offenders.
- This group is responsible for the bulk of solved drug-related crime and also apparently for a disproportionate share of total registered crime in relation to their share in the suspect population.

3 **Response of criminal justice system to drug-related crime**

The overall picture of the response of the criminal justice system to drug-related crime is that forms of organised drug-related crime is punished most severely. The other crimes against the Opium Act are on average punished slightly less severely, although still heavily in relation to crime in general. The heaviest sentences are generally imposed for offences involving hard drugs. Offences involving soft drugs are relatively speaking less heavily punished. Crime among drug users frequently results in custodial sentences. By offering treatment and care during detention, or the alternatives for it, an effort is made to improve the situation for the group of frequent repeat offenders among drug users who dominate the picture, and to reduce the crime and nuisance.

3.1 *Organised crime*

- In the period 1997-2001 the number and share of registered investigations into organisations that produce drugs increased. At the same time, the number and share of registered investigations in which the transport or trade in drugs was discovered declined, before starting to rise again in 2001.

- Between 1998 and 2000 around 35 Amphetamine Type Drug (ATS) production locations were dismantled each year.
- In the period 1996 to 2000 more than 20 cases were dealt with each year under the Abuse of Chemical Substances Prevention Act (each case involves one cause-list number with a single defendant), except in 1998 when fewer than 20 cases were dealt with. In 2001 the number of cases brought under that act rose to 39.
- The number of cases involving offences against the Opium Act in combination with Section 140 of the Criminal Code declined from 450 in 1997 to 248 in 2001. This decline seems to have reversed recently and the number of cases is increasing.
- The chance of punishment in cases involving the Opium Act where an offence under Section 140 of the Criminal Code was charged declined in the period 1997 to 2001 from 75 to 66%.
- The share of unconditional custodial sentences following convictions ranged from 61 to 79%. The average length of the unconditional part of the custodial sentence was around 1000 days, with 840 being the lowest in 2001.

3.2 *Enforcement of Opium Act*

- One in twenty criminal cases involves an offence against the Opium Act.
- The share of cases involving soft drugs has increased from three in ten to two in five.
- Soft drug cases come before the court less often than hard drug cases. Most summonses were issued for cases involving both soft and hard drugs.
- Soft drug cases end more often in a transaction (discharge of liability to conviction by payment of a fixed penalty) than hard drug cases. Cases involving a combination of hard and soft drugs are concluded least often with a transaction.
- In roughly half of the cases involving the Opium Act dealt with by the courts a (partially) unconditional prison sentence was imposed. This involves around 3,500 custodial sentences each year.
- More than four in five of these cases involve hard drugs. Between 1997 and 2000 the number of unconditional custodial sentences imposed in soft drug cases increased from one in nine to one in seven, before declining in 2001 to one in twelve.
- The average length of the unconditional part of the custodial sentence was roughly one year. Offenders convicted for both hard and soft drug offences are given the heaviest sentences in relative terms, offenders convicted for soft drug offences the lightest. The average length of the custodial sentence in soft drug cases has declined in recent years.

3.3 *Crime among drug users*

- A group estimated at several thousands of suspects, overwhelmingly hard drug users, are regularly arrested by the police for a wide range of offences, primarily involving crimes against property.
- The cases against these drug users usually come before a criminal court, which usually sentences the offender to a (partially) unconditional custodial sentence.
- The chance that the convicted drug user will offend again after a while is high. The vast majority of the suspects who use drugs have been prosecuted previously.
- There is also a high recidivism rate among offenders against the Opium Act. This situation seems to be dictated by a group of drug using offenders.
- There is a range of treatment and care available for drug addicts in all phases of the legal process, with increasing use being made of the possibilities afforded by criminal law.
- A considerable effort is made to put drug addicts into care and treatment during the judicial process, partly to reduce drug-related crime and nuisance.
- The courts have started ordering defendants to receive drug treatment under the Judicial Treatment of Addicts, 'Strafrechtelijke Opvang Verslaafden' (SOV), Programme.
- It is still too early to provide any information about the effects of the SOV.