

Summary

In the Netherlands judges juvenile courts often use a psychological assessment of the juvenile as background information to make their decision. Examples of forensic assessments for minors are psychological evaluations of the youth's personality within criminal juvenile law and assessments in cases concerning protection issues (i.e. suspicion of maltreatment, abuse etc.), custody and arrangements of parental access in civil juvenile law. A frequently used definition of forensic assessment is the following: "assessments that in one way or another can or will be used to come to a legal decision in court." The WODC, on behalf of the Dutch Department of Justice, commissioned Adviesbureau van Montfoort to conduct a research project in order to examine the (alleged) proneness to complaints of forensic assessments of minors. The primary focus of the research was to provide insight in nature and extent of complaint proneness in youth forensic assessments. Second aim of the research was to identify possible means of reducing this proneness. An expected effect of reducing the risk on complaints is increased willingness among experts to conduct juvenile forensic assessment.

Nature and extent of complaints

In order to answer the main research question on nature and extent of complaints, we investigated which amount of juvenile forensic assessments were conducted in 2003. Secondly we looked into the amount of complaints filed in 2002 and 2003. Data on the number of assessments were collected from organisations conducting forensic assessments or mediating between applicants and executors of examinations.

We approached the Forensic Psychiatric Service (FPD), FORA (five locations), Haags Ambulatorium, Psychologisch Pedagogisch Adviesbureau (PPAB), Molendrift and Ambulatorium Zetten. Together they provide us with a fairly representative picture of juvenile forensic assessments in the Netherlands. Information on the number of complaints filed was obtained from organisations conducting assessments (assessment agencies and Child Protection Council), the supervisory boards of associations for psychologists (NIP) and child psychologists (NVO) and the regional disciplinary boards for Healthcare. Thus we expected to be able to obtain a reasonably accurate picture of all complaints filed on account of juvenile forensic evaluations.

During the research period, 2002-2003, a total of 31 complaints were submitted against 34 researchers on account of 26 assessments. Comparing these figures with the total number of conducted examinations and complaints in 2003 makes us conclude that in 2003 a little over half percent of all juvenile forensic assessments ended in a complaint. Almost all complaints concerned custody and parental access cases. If we compare the number of complaints with the number of evaluations in custody and parental access (as a subgroup of the total number of juvenile forensic assessments), can be concluded that 5 up to 10% of all youth forensic examinations in custody and parental access cases in 2003 lead to a complaint.

Practically all plaintiffs are either father or mother to the child or juvenile examined. Most complaints came from fathers without custody, followed by mothers bearing custody. Lobby or pressure groups supported half of the complainers. Research agencies on the one hand and professional organisations and disciplinary boards on the other hand report a more or less equal number of complaints. Individual researchers and agencies consider especially complaints submitted to professional organisations and

disciplinary boards emotionally stressing and time consuming. These complaints result in a lot of work for agencies and researchers and take a long time before settlement.

Although our file research is based on small numbers (only complaints submitted in 2002 and 2003 were examined), it leads to the impression that only in a limited number of cases a complaint results in disciplinary action towards the researcher. We have looked separately into the actions undertaken by research agencies on the one hand and professional organisations and disciplinary boards on the other hand, because of their different scope of possible reactions to sustained complaints. The outcome of most complaints filed in 2002 and 2003 is known.

- The outcome is known of ten complaints submitted at research agencies; five were declared partially or completely sustained. In each of these five cases this led to a reaction: four times the possibility was offered of reopening the research; once the researcher apologised.
- Of fourteen complaints submitted to a professional organisation or disciplinary board the outcome is known; of these six were declared partially sustained. In four cases this led to a disciplinary measure: (warning or reprimand).

It seems valid to conclude that custody and parental access cases in general are prone to complaints. This is mainly due to the nature of the problems that are subject of these evaluations. Researchers often deal with situations in which a (private) battle has been going on between parents for some time (some years is not uncommon). The outcome of an assessment will have grave consequences and may become a starting point of a new disagreement. Parents sometimes expect truth finding to take place while the examination is aimed only at providing insight in the problems and finding the best solution (least harming) for the children involved. Unsurprisingly, complaints often concern lack of argumentation and motivation of findings and (alleged) partiality of assessors. According to plaintiffs, partiality of assessors is expressed most evidently in selective use of information.

Means of reducing risk for complaints and increasing willingness

In order to find out how much the willingness of experts to conduct forensic psychological examinations is influenced by the fear of complaints, interviews were conducted with experts (assessors and key persons) in the forensic juvenile field. Respondents have been asked to name possible interventions to reduce the number of complaints and increase the willingness among professionals to conduct these assessments.

Most, if not all, respondents recognise the complaint proneness of youth forensic evaluations. Both for assessors and for organisations complaints have a large and often personal impact. The threat of complaints can present a burden, even when there is no factual complaint (yet). Despite this heavy impact of complaints, many experienced forensic juvenile examiners do not fear complaints (any more). They do not want to give in to threat, some even state that the continuous threat of complaints keeps them sharp. On the other hand, different sources confirm that the complaint proneness holds people back to start or continue examinations in cases concerning custody and parental access. Some respondents consider stopping conducting this type of forensic evaluations; others know someone who stopped or is prevented from doing this type of examinations by fear for complaints. In addition, experience with aggression of clients can have a negative impact on the willingness to conduct youth forensic examinations. Respondents pointed regularly at lack of financial means and reward, as well as limited time and high pressure; contributing to the consideration to no longer wanting to conduct this type of psychological evaluation.

Preventing complaints seems high priority by all researchers and institutions. Work is done carefully and according to protocols. There is both attention and coaching (in the form of a second reader and legal advice) in cases that are at risk for complaints. Consideration is given to possible collective insurances for legal help and professional liability. Reduction of fear for complaints can be obtained in the first place by accepting that the risk of complaints is inherent to the work. According to experienced researchers it is important to develop an attitude of professional distance, in order to reduce the possible personal impact of a complaint. Some concrete points of improvement have been mentioned in the interviews: e.g. more consideration for education and coaching of starting researchers and professional support (intervisie) on a more regular basis for researchers mediated by the FPD.

Recommendations

Based on the research findings and discussion in the supervising advisory board (begeleidingscommissie), we come to the following recommendations:

- Improve the fine-tuning on case level between applicants, mediators and organisations conducting examinations.
- Executing organisations should accomplish and maintain relations with pressure groups.
- Stimulate the acceptation that complaints are part of the job: annual internal analysis of the complaints submitted at organisations conducting forensic examinations might contribute to this.
- Expand the educative services of the FPD and offer researchers training aimed at dealing with (threat of) complaints.
- Stimulate complainers to file their complaint as close as possible to the source, so in first instance at the agency that conducted the examination itself. The research agency can make arrangements in an early stage to come to a satisfactory solution.
- Improve fine-tuning of professional codes and complaint procedures of organizations of professionals (e.g. NIP or NVO) and disciplinary boards for health care.
- Restrictions to terms of filing and dealing with complaints.
- Fine-tune between organisations conducting assessments and FPD on professional standards for researchers (quality and registration issues). This is important for a proper function of the task of quality control of the FPD. In summation, it is important the FPD should have a complaint regulation, according to the Algemene Wet Bestuursrecht.
- Improve of financing of forensic juvenile examinations.