

Summary

Forensic assessment is “assessment in order to obtain a decision in court, that in one way or another can come to be judged by a legal institution”. This is the definition given in the ‘national format forensic assessment in youth care’. Examples of forensic assessment are psycho-diagnostic personality examinations impeded by Judge or Prosecutor within criminal juvenile law or examinations in order to determine the necessity of evoking child protection measures or custody and parental access arrangements in civil juvenile court.

In the nineties of the last century, a number of bottlenecks were signaled in forensic juvenile assessment. Subsequently, the Department of Justice started a national project forensic assessment in youth care five years ago. In 2002 this project resulted in the earlier mentioned national format forensic assessment and an implementation plan. This national format is meant to improve efficiency, quality, uniformity and timeliness of forensic assessments. The format should also contribute to transparent financing. The national format contains regulations not only for the content of forensic assessments but also for an organizational structure in requesting, mediating and carrying out forensic assessments. In the new organisation structure the Forensic Psychiatric Service (FPD) is given a central role in mediation, matching and quality control. The national format was introduced in three tranches, the 1st of which started in January 2003. The current study is aimed at the last tranche of districts who implemented the national format on the 1st of January 2005. These districts are Alkmaar, Almelo, Arnhem, Breda, Groningen, Haarlem, Leeuwarden, Lelystad, Maastricht, Middelburg, Roermond, Zutphen and Zwolle.

In 2006 a national study will be conducted on the implementation of the national format. The current study is meant as a baseline measure of the situation before the introduction of the national format. Themes studied were:

1. An inventarisation of the number and cost of forensic assessments in the Netherlands in 2002 and 2003.
2. A dossier research aimed at quality and practical usefulness of assessments conducted in 2002 and 2003. We included 52 criminal and 51 civil records from four districts: Arnhem, Breda, Groningen and Haarlem. The following criteria were used selecting these districts: geographical distribution over the districts, distribution over the different kinds of commissioners of assessments (Judge, Public Prosecution, Child Protection Council, Institute of Youth Care), presence of one single family chamber for criminal and civil cases versus separated chambers and the presence of a range of assessment agencies. We assume in this way it is possible to give a description representative for the entire ‘third tranche’.
3. A description of ‘the forensic situation’ in the four districts of the third tranche, before introduction of the national format. This study was carried out in the last part of 2005. It was not possible for the different partners involved in forensic assessments to give a precise description of the situation one year before, just before implementation of the national format in January 2005. For that reason the presented material is more a sketch of developments in 2005 than a baseline measure.

The results of this study make clear that already in 2002, so before implementation of the national format, de FPD did play an important role in criminal assessments. In 2002 and 2003 the FPD provided mediation for about 900 assessments a year. Agencies specialized in forensic assessments (predominantly Fora and Ambulatorium Zetten) say they carried out nearly 500 assessments yearly in the same period. Taking into account possible double counting, our estimate of the number of criminal assessments is 1200 to 1400 a year.

In civil law in the studied period the specialized agencies conducted almost 1000 forensic assessments yearly. The potential number of double counted assessments in this area is limited, because the FPD did not mediate for civil assessments in 2002 and for only a limited number in 2003. In almost one quarter of the civil records studied, the questions to be answered by the evaluation were aimed exclusively at the type of care needed, leaving unclear whether the assessment was also intended as a basis for legal decision. This confusion about the definition of 'forensic assessment' is a complicating factor in determining the number of civil forensic assessments conform the definition of the national format.

In the fees charged for forensic assessments we found a large variation. In criminal assessments this variation was smaller. The FPD gives directives for hour fees and the number of hours to be invested. However, the FPD did not make a distinction between single (conducted by either a psychologist or a psychiatrist), double (psychologist and psychiatrist) or triple assessments (psychologist, psychiatrist and social worker). Therefore, a mean price could not be calculated. Civil assessments are often more time intensive. Reported costs vary strongly, from 1100 to 4500 Euro. For civil assessments there are neither fixed hour prices nor directives for time investment. Comparing prices is complicated further because the agencies did give a subdivision in the different types of assessments (custody and parental access, protection, other).

The record analysis showed that the mean amount of time needed to carry out a criminal examination (from application to sending of the report) was 13 weeks in the study period. One third of evaluations took over 13 weeks. The mean number of weeks needed for civil reports in the same period is much longer, 28 weeks. Custody and parental access cases take a mean 4 weeks longer than protection cases; 30 and 26 weeks respectively. There were two assessments in our study that took less than 13 weeks to complete. The fact that civil assessments take more time has to do with the complexity of the client system involved. Because for the parties involved, there is a lot at stake, this type of research is seen as being prone to complaints. Clients (usually parents) can frustrate the research by not showing up at appointments for example. In order to prevent complaints, psychologists and psychiatrist hear each party extensively. Another time consuming aspect is the number of chains between applicants/FPD and the ones carrying out assessments. The long duration of assessments is incompatible with the Kalsbeek norms for proceedings in court which prescribe that in 80% of cases sentence should be passed within 6 months after the first hearing. The mean period of 28 weeks needed for forensic civil assessment alone is already longer than the Kalsbeek norm for the entire process until reaching a verdict.

After calling upon assessment, a mean 7 weeks in criminal and 10 weeks in civil assessments go by before the evaluation is actually started. According to the chain partners in all districts this is partly due to a shortage of experts to carry out the assessments. Not all forensic psychologists and psychiatrist are willing to conduct civil assessments, because they fear arguing parents might complicate the work. When an assessment is not yet available, sessions in court need to be adjourned. According to the national format the FPD carries out external quality control, including control on timeliness of assessments. The FPD norms allow 8 up to 10 weeks for an assessment and a further 2 weeks for reporting and a quality check by the FPD. Given our results, especially for civil assessments it will be a difficult task to bring back the time needed to this prescribed limit of 12 weeks.

Duits, Van den Brink and Doreleijers studied the practical utility of juvenile criminal forensic assessments. From their work we derived utility aspects concerning the advice in assessment reports. Most evaluations (90% and 80% in criminal and civil assessments respectively) supply a motivated recommendation for treatment or counseling. Examples of recommendations are counseling by youth probation, proposing a social training course or indicating a suitable (penitentiary) institution. In 2002/2003, half of criminal and two thirds of civil assessments contained information on feasibility of the advice given. Whether or not a report contained practical recommendations for treatment, appeared to depend largely on the requesting party, the Court or Counsel for Prosecution. Some prosecutors and judges report feeling pressured when reading in an advice that the proposed institution is available and an appointment for intake is already made. Others feel this information is part of the requirement of feasibility.

The dossiers studied already fulfill a number of quality requirements of the national format. Among the requirements which most often are not met, are stating the function and registration (GZ-registration) of the researcher, noting the location where the assessment was carried out, which documents were consulted, including a summary and mention whether or not the results were discussed with the underage subject.

The parties concerned observe a number of bottlenecks and points of particular care in forensic practice in the years 2004 and 2005.

In criminal law, they observe that written reports often take too much time, are too extensive and contain indistinct linguistic usage with a lot of repetitions. Recommendations often fail to make a distinction between advisability and feasibility of interventions. Furthermore experts do not always show extended knowledge of existing possibilities for treatment. Availability of forensic experts is limited, more so for psychiatrists. Finally most interviewees judge the financial compensation for experts as insufficient.

In civil law the same bottlenecks are observed; excessive elaborateness of reports, inaccessible linguistic usage and, mostly in protection and custody cases, the long duration. There are complaints about the quality of experts; insufficient knowledge of treatment possibilities, no verification of feasibility of recommendations and little knowledge of privacy rules. Furthermore the unclear boundaries between assessments for treatment and assessments for legal decisions are a reason for concern. The proneness to complaints of civil assessments in the experience of involved parties is also seen as a bottleneck.

Finally some persons concerned have doubts on the sense of the evaluation by the FPD and double quality control by FPD and Child Protection Council.

Most forensic partners expect and hope the growing role of the FPD will have a positive effect on quality of forensic examinations and on quality guarantees. Positive aspects of the new role of the FPD are a critical evaluation of the necessity of examinations, formulating investigation questions, problem analysis and consulting each other. Others express their concern that the position of the FPD between the party requesting and the party carrying out assessments might lead to more bureaucracy and decreased timeliness.

The interviews make clear that implementation of the national format is an evolving process in which the FPD gradually builds out the role and tasks the national format assigned to the FPD. In general we can conclude that more progress has been made in criminal than in civil assessments. In criminal law the role of the FPD and the new quality system is hardly a matter of discussion, while in civil law the role of the FPD is more a subject of debate. The implementation speed of the format differs per district. One of the districts of the third tranche started with a new advising and consulting structure in 2004, while another district started in 2006. For this reason it was not possible to conduct a baseline measurement of the situation before implementation of the national format. Together with the fact that the FPD still had only a limited part in juvenile forensic assessment in 2005, it seems premature to start a national study on benefits of the national format since its introduction. In civil examinations, these profits will be limited. A national process evaluation seems more suitable.