

Summary Evaluation National Framework Forensic Diagnostics for Juveniles

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Summary

Introduction

The period 2003-2005 saw the phased implementation of the National Framework Forensic Diagnostics for Juveniles (in Dutch: Landelijk Kader Forensische Diagnostiek Jeugd). The National Framework was set up following complaints in the field about the quality of forensic diagnostics for juveniles. The implementation aimed to improve the effectiveness of forensic diagnostics, to speed up forensic diagnostics and to improve quality of the diagnostic reports. In order to achieve these objectives, the tasks and responsibilities of the chain partners have been explicitly laid down in the National Framework. Formats and guides that support the allocated tasks have also been developed.

The National Framework makes a clear distinction between forensic diagnostics in the criminal and civil domains. In the criminal domain, the National Framework is obligatory for all chain partners. In the civil domain, the National Framework is obligatory for the Child Care and Protection Board (in Dutch: Raad voor de Kinderbescherming), the judiciary and the Netherlands Institute for Forensic Psychiatry and Psychology (in Dutch: het Nederlands Instituut voor Forensische Psychiatrie en Psychologie). In terms of family supervision, the Youth Care Agency (in Dutch: Bureau Jeugdzorg) voluntarily participates in the National Framework.

The Research and Documentation Centre (in Dutch: het Wetenschappelijk Onderzoek- en Documentatiecentrum) of the Ministry of Justice instructed the DSP group to evaluate the National Framework. The objective was to find out how minors are forensically diagnosed following the implementation of the National Framework, and to what extent the bottlenecks that were the reason for its implementation have now been removed. This answers the central question of the study:

To what extent and how do parties apply the new method of the National Framework Forensic Diagnostics for Juveniles, what are the bottlenecks and how does this relate to the problems that were identified in the past?

Systematic accountability

The evaluation is a follow-up to previous baseline studies that describe the situation in forensic diagnostics before implementation of the National Framework. Whenever the study makes a comparison with the old situation, the results of these previous studies were used.

Different study methods were used for the current evaluation. In addition to a document analysis, 43 semi-structured interviews were held with representatives of all relevant chain partners in four districts. The registration data of the Netherlands Institute for Forensic Psychiatry and Psychology was analysed, while 75 civil and 150 criminal behavioural expert's reports were assessed for their formal quality aspects in three districts.

When reading this summary, one must take into account that the evaluation has its restrictions. Firstly, the evaluation only allowed for a study of the formal quality aspects of reports and forensic diagnostics. This means that, it has for instance been established whether the way in which diagnoses are made has been imitably described and whether reports show whether the recommendation was tested for feasibility, but that it has not been established whether the diagnosis or the recommendation itself is substantively correct. Secondly, we must generalise carefully because of the choice to have research carried out in three respectively four districts and because of the lack of a control group. Finally, it may be possible that certain research results are somewhat dated due to the long period that has lapsed between the gathering of an important part of data and the moment of publication.

Effectiveness of requests

The implementation of the National Framework is partly motivated by the fact that it had been assumed that the way in which requests for forensic diagnostics were made, was not effective. Both the civil and criminal domains faced the problem that there was no uniform method for establishing the need for diagnostics by a behavioural expert. Each district applied its own weighting criteria, while the number of parties that played a role in the deliberation whether diagnostics by a behavioural expert were necessary, differed. As such, there was a risk that similar cases did not lead to requests for forensic diagnostics to a similar extent.

In addition, diagnostics by behavioural experts in the civil domain were requested on spurious grounds. Some diagnostics for instance only answered treatment-related questions. Diagnostics were also often requested for reasons of caution. That is: in principle, they had more than enough information in order to advise the judiciary, but due to complicating factors (such as a disturbed relationship between the Child Care and Protection Board and the Youth Care Agency on the one hand and the youngsters or their parents on the other), external diagnostics were requested so as to substantiate the final recommendation. The diagnostics by behavioural experts - funded with judicial money - were however never intended to answer treatment-related questions or to remove caution.

In order to achieve uniformity when establishing the need for diagnostics by a behavioural expert and in order to prevent diagnostics being requested for spurious reasons, the National Framework includes a number of provisions. First, the weighting instrument, which enables the requestor to establish whether forensic diagnostics are desirable and if so, which type, based on a limited number of details on the juveniles. Second, the National Framework instructs the Netherlands Institute for Forensic Psychiatry and Psychology to make recommendations for this decision. Finally, the National Framework dictates fixed diagnostics questions that provide a framework for forensic diagnostics and which will prevent (only) treatment-related questions from being answered.

Criminal law: effectiveness following implementation of the National Framework

The evaluation demonstrates that the implementation of the National Framework has, so far, not led to a uniform method for establishing the need for forensic diagnostics. In one district the decision to carry out forensic

diagnostics is taken *de facto*, at the weekly needs assessment meetings between the Child Care and Protection Board and the Netherlands Institute for Forensic Psychiatry and Psychology, while in another district the requestor independently takes this decision, whether or not with the help of a weighting instrument. As the National Framework is not always used in order to establish the need for forensic diagnostics, there is no guarantee that requests for forensic diagnostics are made in an effective manner.

Civil law: effectiveness following implementation of the National Framework
Apart from the lack of a uniform method to establish the need for diagnostics by behavioural experts, the civil domain faced the problem that forensic diagnostics were requested spuriously. The evaluation shows that this latter problem is a lot less serious now. Diagnostics are no longer requested (just) for the answering of treatment-related questions. One important reason that contributed to the progress in this field is the funding system of forensic diagnostics. In contrast to the past, diagnostics by behavioural experts currently weigh heavily on the requestor's own budget. Also, as a result of reorganisations at the Child Care and Protection Board and the Youth Care Agency, an increasing number of diagnostics are carried out internally.

Although the number of requests for forensic diagnostics for reasons of caution is falling, this spurious reason for request was still being used at the time of the evaluation.

As in the criminal domain, the provisions of the National Framework are not always applied in the civil domain when establishing the need for forensic diagnostics. The weighting instrument provided by the National Framework is not always used in the same manner, and the districts' own weighting criteria (if any) also differ. In addition to this, the role of the Netherlands Institute for Forensic Psychiatry and Psychology varies. In one district the requestors use it as an advisor for needs assessments and mediator, while in another district its role is limited to one of mediation between the requestor and reporter, or it plays no role at all. Due to this multiform method to establish the need for diagnostics by behavioural experts, the civil domain also lacks the guarantee that requests for forensic diagnostics are made in an effective manner.

Processing times

Before the implementation of the National Framework, many reports were not available in time for the hearing. By making the Netherlands Institute for Forensic Psychiatry and Psychology responsible for the coordination between supply and demand of forensic diagnostics, an attempt was made to realise a more efficient coordination, thereby shortening the processing times of the diagnostics by behavioural experts.

Criminal law: processing times following implementation of the National Framework

The issue with processing times continues, even after implementation of the National Framework. Public prosecutors and judges across the board still complain about the fact that hearings are often deferred because the reports are not available in time.

We can partially substantiate these experiences by means of figures. The processing times of the reports mediated by the Netherlands Institute for Forensic Psychiatry and Psychology have not improved much following the implementation of the National Framework, and between half and one third of reports are not delivered in time - i.e. no later than one week in advance - for the hearing, depending on the type of diagnostics.

The biggest reason for this time issue is the fact that the Netherlands Institute for Forensic Psychiatry and Psychology is unable to attract enough examiners for the work in hand. Waiting lists are the result. Because of that, the processing times of the diagnostics are stretched and sometimes the Netherlands Institute for Forensic Psychiatry and Psychology, from a pragmatic point of view, advises the client not to carry out diagnostics by behavioural experts, or to opt for single diagnostics when double diagnostics by behavioural experts would be more appropriate.

Civil law: processing times following implementation of the National Framework

Like the criminal domain, the users of forensic diagnostics in the civil domain have not seen any major improvement in terms of processing times after implementation of the National Framework.

Although the figures available are only partially suitable for reliable judgements, it does seem there is a slight improvement. The standard duration of thirteen weeks applied by the Ministry of Justice is however still not achieved, even after implementation of the National Framework: more than two thirds of reports require more time.

As in the criminal domain, the limited number of forensic examiners available is one of the reasons for the long processing times. In addition, the civil domain is faced with the fact that participation in the diagnostics is voluntary and that forensic diagnostics in a civil context are often more complex and, as such, demand more time.

Quality of the reports

Before implementation of the National Framework, the users of forensic diagnostics felt that particularly the criminal reports by behavioural experts lacked quality. The reports often contained surplus information, while the information that was needed, was lacking. Reports sometimes failed to tie in with the legal context in which the information had to be used, and the systematic substantiation of the conclusions and recommendations failed. Another often-heard complaint was that a lot of reports were difficult to access: it took the user too much time to filter the essence of the diagnostic findings from the report.

The National Framework has a number of provisions in order to remove the aforementioned bottlenecks. First, reporting formats have been made available. These formats force the behavioural expert to report on the basis of a fixed number of subjects. Not only does this system guarantee that all subjects deemed relevant by the requestor have been dealt with, but also that all questions deemed relevant for the legal decision have been answered.

In addition to the reporting format, the National Framework attaches requirements to the reporter. He must have followed a university study programme in remedial education, psychology or psychiatry, supplemented with a forensic diagnostics study. He or she must also be BIG-registered. Furthermore, every behavioural expert is expected to carry out at least six diagnostics every year, and to be acknowledged and listed in the reporters register of the national reporting committee.

The best guarantee that the aforementioned provisions will indeed result in good-quality reports, is given by the tasks allocated to the Netherlands Institute for Forensic Psychiatry and Psychology under the National Framework. First, the National Framework instructs the Netherlands Institute for Forensic Psychiatry and Psychology to mediate between the requestor and reporter. That is, it will find a suitable behavioural expert who meets the requirements set by the National Framework after the requestor has given the instruction for diagnostics by a behavioural expert. Its second role is to test the quality of the reports after they have been drawn up by the behavioural expert. If it fails to meet the quality criteria applied by the Netherlands Institute for Forensic Psychiatry and Psychology, it will notify the examiner thereof, who is subsequently given the opportunity to adjust his report (the examiner for that matter is not obliged to adopt the recommendations of the Netherlands Institute for Forensic Psychiatry and Psychology, due to his independent position).

Criminal law: quality reports by behavioural experts

This study has shown that the formal quality of the criminal reports has improved and is on average currently regarded as good by users. This progress can partly be attributed to the use of formats and standards under the National Framework and the verifying role of the Netherlands Institute for Forensic Psychiatry and Psychology.

Despite the improvement of the reports' formal quality, the evaluation still identifies a number of points that need attention. Users say that some of the reports are not clear on the relationship between the offence committed and the presence of a disorder. In conjunction with this, it is said that some reports still contain insufficiently substantiated diagnoses and settlement recommendations, and are not properly in line with the legal context within which they are used. Users also say that a recommendation for treatment is often issued without the examiner having established whether this is actually available.

The availability of behavioural experts may contribute to the aforementioned problems. The number of behavioural experts which the Netherlands Institute for Forensic Psychiatry and Psychology can choose from seems to be too small in order to meet demand for examinations by behavioural experts. As a result, the Netherlands Institute for Forensic Psychiatry and Psychology is sometimes forced to instruct examiners who are less suitable for the instruction in question on account of their competencies and specialist subjects. Also, in regions that lack examination capacity, examiners not always seem to meet the quality requirements set under the National Framework.

Civil law: quality reports by behavioural experts

In contrast to the criminal reports, the reports by behavioural experts in the civil domain were found to be correct *before* implementation of the National Framework. That opinion has not changed since implementation of the

National Framework. Also, the evaluation has shown that the structure of the reports has improved further, as have the reports, which are now found to be more concise.

Despite the general positive opinion, users of forensic diagnostics in the civil domain are not always satisfied with the recommendations, as they are not always tested for feasibility. Users also notice that reporters in civil assessments tend to be too careful in their formulations of conclusions and recommendations, because it is so easy to lodge a complaint against them.

From the National Framework we can deduce that it is the intention to set up a public reporters register for the civil domain as well. So far, this has not happened. Furthermore, reporters working for the Netherlands Institute for Forensic Psychiatry and Psychology do not meet the quality criteria, outlined in the National Framework, in all districts.

Conclusion

The implementation of the National Framework aimed to improve the effectiveness of requests for forensic diagnostics, to speed up forensic diagnostics, and to improve quality of the diagnostic reports. The evaluation has shown that both the criminal and civil domains fail to implement the National Framework in a uniform manner. In each district, the allocation of tasks among the chain partners differs. Furthermore, the use of weighting instruments and formats under the National Framework also differs.

The assessment also demonstrates that the goals of the National Framework have only been partially achieved. The formal quality of reports has improved in the criminal domain. However, they are still not processed in time, while the way in which the need for forensic diagnostics is established still does not guarantee an effective request for diagnostics by behavioural experts.

The situation in the civil domain slightly differs from that in the criminal domain. Before implementation of the National Framework, the quality of forensic reports was generally regarded as good, and that opinion has not changed after implementation. The effectiveness in the civil domain has increased in the sense that nowadays no more diagnostics that (only) answer treatment-related questions are carried out. The number of requests for diagnostics for reasons of caution has also fallen. However, like the criminal domain, the way in which the need for forensic diagnostics is established is still not uniform. The time it takes to process reports has hardly improved either.

Based on the above, we can conclude that the problems that led to the implementation of the National Framework will largely persist.