

## Summary

### 1. Reason, purpose and research questions

On the basis of the cabinet's ambition to reduce drug-related violence, work has been done in the past few years at three pilot locations on designing and testing a new method of collecting information on substance abuse by committers of violence. This concerns a new working method for the police, in which:

1. Arrested suspects caught in the act are asked during interrogation about the type and amount of alcohol and/or drugs used. In addition, these suspects are requested to cooperate in a breath test (alcohol) and a drug test. If the result is positive, a breath analysis follows.
2. When suspects are arrested who were not caught in the act, the person reporting them or witnesses are asked whether substance abuse was involved. The information is verified during the interrogation of the suspect.
3. The police records the results of the situations referred to in 1) and 2) above. If drugs are involved, the type of drugs and how it was determined is also recorded.

This new working method is intended to improve insight into the nature and extent of substance abuse by committers of violence, in order to clarify how important it is to make additional investments at this level.

In addition, the pilots are aimed at exploring the possibilities to improve the information situation of the police in such a way that information can be used to provide support in making choices of the most appropriate judicial and preventive measures aimed at reducing recidivism among committers of violence.

The locations taking part in the pilot were: the IJsselland police region (with Zwolle, Deventer and Kampen as the main cities), the Municipality of Schouwen-Duiveland (Zeeland police region, with Renesse and Zierikzee as its main residential centres) and the Municipality of Wageningen (Gelderland-Midden police region).

Depending on the results of the pilots, the authorities concerned will consider whether nationwide introduction of this working method is desirable and under what conditions it can be implemented. The data and analyses in this research report are intended to assist in making this consideration.

## 2. Design of the research

This research evaluates the aforementioned pilot on several points which are vital to the consideration of a desirable sequel. The focus is on the request of the commissioning authority, the Ministry of Justice, regarding two elements: 1. explanation of the knowledge compiled in the pilot on the nature and extent of the problems outlined; 2. identification of the technical and legal problems faced in nationwide introduction of the working method.

The research questions read as follows:

- I. What is the proportion of violent crimes in which alcohol abuse plays a part, in the experimental municipalities as well as extrapolated to national level?
- II. What is the proportion of violent crimes in which (hard) drugs play a part, in the experimental municipalities and extrapolated to national level?
- III. What is the proportion of violent crimes in which both alcohol and (hard) drugs play a part, in the experimental municipalities and extrapolated to national level?
- IV. In what crimes involving what perpetrators and in what situations do alcohol and drug-related crimes occur most frequently?
- V. What are the legal bottlenecks in determining the use of alcohol and drugs by suspects of violent crimes and how can they be resolved?
- VI. What are the legal limits on the forwarding of information by the police to other authorities (for example addiction treatment institutions) with a view to preventive activities? Are those limits a problem and if so, how can it be solved?
- VII. Are the tests used adequate to establish alcohol and drug use? The 'adequacy of the tests' should be understood in this study as 'the applicability or usability of the tests', as assessed by the users (police) and – possibly – (paramedical or medical) experts on site.

For clarity's sake, the seven research questions have been incorporated in five sub-studies. Sub-studies 1) and 2) answer the empirical questions about the nature and extent of violent crimes committed under the influence of narcotics (research questions 1 to 4). For the purposes of this study, the recording of acts of violence by the police was analysed in the three pilot locations over the period from April 2007 to October 2007.

Sub-studies 3) and 4) deal with the legal bottlenecks of the new policy (research questions 5 and 6). Legal bottlenecks can exist in relation to obligations to cooperate with a test and the sharing of information by the police with chain partners. In addition to studying the relevant literature, we interviewed experts.

Lastly, sub-study 5) is intended to determine the usability of the proposed alcohol and drugs tests (research question 7). Technical bottlenecks can occur in using the tests in practice, particularly concerning their ease of use and reliability. In this context as well, relevant literature was studied, after which the experiences gained with the tests in the three pilot locations were compiled.

### 3. Findings

*Research questions I, II and III: What is the proportion of violent crimes in which the use of alcohol and/or (hard) drugs plays a part, in the experimental municipalities/region and extrapolated to national level?*

Data were obtained from the three police locations on the number of incidents of violence that occurred during the pilot period. Insight into substance abuse prior to the incident could, of course, only be obtained if it was possible to arrest a suspect. The *proportion* with which the research question deals thus concerns the share of substance-related violence in the total of incidents of violence *with an arrested suspect*.

In order to obtain *factual* information as well, in the form of a test, about a particular suspect's substance abuse, the suspect has to be arrested while caught in the act or shortly after the incident. Although this is often the case, the test often proves not to have been carried out. During the pilot period, 2,244 suspects were arrested for incidents of violence in the three pilot areas together. The number of tests administered for alcohol and/or drug abuse was 78 in total: 59 alcohol tests and 19 drug tests were administered. The number of tests carried out during the pilot is therefore lower than might be expected based on the design of the test. Consequently, the proportion of substance abuse was not computed only on the basis of information from the tests, but also on the basis of the records (observations) of police staff.

With this working method, the proportion of incidents of violence in which one or more suspects had consumed alcohol comes to over one fourth, 27% (N=1626). The difference between the pilot locations is, however, large. In the IJsselland police region (N=1481) the proportion is 26%, in the Municipality of Schouwen-Duiveland (N=145) 43%. No total figures were obtained from the Municipality of Wageningen pilot location (of the number of incidents of violence in the pilot period), thus no comparable computation could be made.

In the Municipality of Schouwen-Duiveland, there appear to be strong seasonal effects: from April to June and in September and October, the proportion of alcohol-related violent crimes is 28%, which is the same as in IJsselland; the summer months July and August, however, bring the average in that Municipality up to 43%.

The proportion of drug-related incidents, as well as incidents in which both alcohol and drugs were used (by 1 person), at 3%, was significantly lower than the consumption of alcohol,

As data collection took place at three pilot locations which were not selected with a view to national representativeness, an extrapolation to national level cannot be made reliably. Nevertheless, a rough calculation can be made, assuming that the problems in the pilot regions are *indicative* of the extent of the total problems in the Netherlands. For 2006, this estimate produces a figure of about 38,600 substance abusing suspects of violence out of a total of 137,802 suspects of violent incidents

who were arrested by the police.

*Research question IV: In what crimes involving what perpetrators and in what situations do alcohol and drug-related violent crimes occur most frequently?*

Many of the violent incidents committed involve bodily harm, destruction of property and threats. Among the alcohol-related incidents, breach of public order, destruction of property and threats prove to occur proportionately more often. The alcohol related incidents often take place in the context going out, and the person(s) reporting and suspect(s) often prove to be unknown to each other, which is sometimes called 'senseless violence'. Particularly destruction of property combined with alcohol consumption almost always prove to take place at night.

The incidents of physical violence against persons which are committed in combination with substance abuse can be typified as 'serious violence' in almost half of the cases. And in one third of these violent incidents, the violence results in serious bodily injury to the victim.

The arrested suspects who used those substances include many young people, almost exclusively men. Many of these persons prove to have been in trouble with the police before (we examined whether they had previously appeared in BPS as *suspects*). Of the total group of 'substance abusing suspects' in the secondary analysis (91), half of them (45) proved to have such records. These are very often records of incidents of violence (39 out of 45), in which substances have very often been used (23 times alcohol and 6 times drugs). Because definitions of violence used in other investigations are not similar to the definition used in the pilot, no data are available to classify observed proportions according to type of violence and characteristics of the perpetrators.

*Research question V: What are the legal bottlenecks in determining the use of alcohol and drugs by suspects of violent crimes, and how can they be resolved?*

This research question pertains to possible legal bottlenecks that can exist in administering the tests and recording data on the use of alcohol and/or drugs. The assumption of the pilot is that the recording of certain data on substance abuse is necessary for the proper performance of the police duty to enforce the law or provide assistance. This recording of data on substance abuse is not a problem in itself and suspects and others involved are already being asked about this during interrogations. Legal problems may well arise if one checks whether the administration of the tests and recording of the test results is particularly *necessary*. The questioning of a suspect – on the basis of goals set which ensue from the duties of the police – may perhaps provide sufficient information to take action, which would make the information from a test superfluous.

Another possible legal problem concerns the authority of police officers to administer tests. If nothing has been determined about this in the context of the pilot, the question is whether voluntary cooperation by the person concerned with the administration of the alcohol or drugs test and the use of the results makes this lawful.

Finally, a possible legal problem can arise if it is decided to place the administration of the alcohol and drugs test in a mandatory framework, so that the suspect can be forced to undergo the test. This requires a special legal basis. In enacting that basis, the legislature must strike a balance between, on the one hand, the right to protection of privacy and physical integrity and, on the other, the purpose of administering the test. The legislature must also observe the principles of proportionality and subsidiarity.

*Research question VI: What are the legal limits on the forwarding of information by the police to other authorities (for example addiction treatment institutions) with a view to preventive activities? Are those limits a problem and, if so, how can it be solved?*

A legal ground exists for the provision of information. In providing the information, crime prevention plays a big part, but on the other hand, there is also an eye for the welfare of the perpetrator. Because these are tasks to be performed by the police and they are partially dependent on other authorities in doing so, one could argue that it is in the interest of the police to provide the relevant information so that their task can be performed optimally. A possible legal bottleneck could arise if information on occasional alcohol and drug use is provided to organisations such as addiction treatment institutions or the probation service. The question is whether this is among the objectives of providing information.

The possible legal bottlenecks relate to the provision of information to local addiction treatment institutions, while they are not explicitly mentioned in the current Police Act (*Politiewet*) as parties entitled to receive such information. The question is whether the exception provisions can be applied. This depends on the nature of the information actually provided. If this concerns *unnecessary* information, a problem will arise and the information should not have been provided.

*Research question VII: Are the tests used adequate to establish alcohol and drug use in cases of violence? In the context of this study, the 'adequacy of the tests' should be taken to mean the 'applicability or usability of the tests', as assessed by the users (police) and – possibly – (paramedical or medical) experts on site.*

All police officers questioned who had worked with the tests stated that both tests are very easy to use. With respect to Drugwipe® 5, they noted that it takes a bit of time to get accustomed to it and that they are somewhat reticent regarding the use of the test. Its use, however, is self-evident if one reads the manual.

Drugwipe® 5 can identify six types of drugs in sweat or saliva samples. Taking a saliva sample is preferred because, unlike a sweat sample, it can show recent drug use. It is not always possible to take a saliva sample. The use of cannabis or Ecstasy can, for example, cause a dry mouth, from which not enough saliva can be taken. A sweat sample will then have to be taken. Drugwipe® 5 has been evaluated with different results. It emerged from the study by Mathijssen (1999) that cannabis use is difficult to detect on the basis of sweat samples. In the Rosita-2 project, different tests were evaluated and compared which detect drugs on the basis of saliva samples, including Drugwipe® 5. In this study, the drugs test scored well on the degree of reliability. The police officers questioned exercise some restraint in making reliability estimates regarding the drugs test. One officer stated that in two of the four cases in which the suspect admitted using cannabis, the test did not show this. Another officer who had used the test or was present during its use many times stated that the test once turned out positive even though the suspect had not taken any drugs.

Alcosensor IV was used in the pilots. This is a different test from the one used by the police in traffic. Some commotion arose in 2000 about the reliability of the last-mentioned tests, because in the television programme “Blik op de Weg”, it emerged that a human subject scored too high on the selection equipment only after drinking nine beers and afterwards even scored too low on the proof test. A study conducted on the basis of this commotion showed that 80-85% of the adult population would be subject to criminal prosecution for driving in traffic shortly after drinking nine beers. There was little chance that the drivers subject to prosecution would mistakenly not be selected for the proof test. There was a good chance of wrong selection, especially if the result of the selection test was not above the selection limit. Not much is known about Alcosensor IV. The police officers questioned stated that they consider it highly reliable. It sometimes happens that a person has drunk a lot and the test does not turn out positive, but that does not happen often. It also happened once that a person had not drunk anything and the test turned out positive anyway.

#### **4. Consideration of the significance of the pilots based on the targets set**

When we consider the foregoing results and explorations of the pilot based on the two main targets of the pilot, we arrive at some observations which are important to take into consideration in choosing a (possibly national) sequel to this pilot.

The first observation is that, with a view to the first target – generating more/better information on the problems of alcohol and drug abuse by committers of violence – had hardly any added value. It is clear that no test discipline exists yet, as evidenced by the small number of tests administered, nor is there discipline for questioning the persons concerned about alcohol and drug abuse by suspects, as evidenced by the fact that it is not consistently noted down in statements *if* questions were asked about substance abuse and – if suspects are questioned about this – little and constantly changing information is recorded. For these reasons, there is too much ‘missing’ from the records of the police at the pilot locations. The information situation at these pilot locations therefore does not differ from that of all other regional forces, in the sense that statements regarding what the police know about the problems can be made

only on the basis of additional research. With that, the pilot working method did not result in a simpler way – by means of codes used and standardisation of recording – to generate surveys of the nature and extent of alcohol and drug-related violence. Nor has the use of the tests resulted in a deepening of the information situation, because the tests were used to a limited extent, but also selectively. Because the implementation of the working method was not monitored in the pilot, hardly any information is available on the causes of the failure to test or the selective testing of suspects. It is advisable in the further implementation of the working method (in the three pilot locations or elsewhere) to invest expressly in 1. a tightly organised process aimed at optimising the provision and administration of tests, 2. introduction of a fixed protocol for questioning suspects and others involved in interrogations (some standard questions could be used).

A start has been made with respect to the second target of the pilot – exploring the possibilities to use an improved information situation of the police in such a way that it provides support in making choices of the most appropriate judicial and preventive measures aimed at preventing recidivism among committers of violence – together with the legal exploration as worked out in this report, but the next move is expressly up to the local parties (perhaps supported in this regard by the national government). In order to work carefully, with correct attention for protecting the privacy of suspects, the police together with the chain partners could specify exactly which information they need for what purpose, linked to the performance of one another's core tasks. This has not yet been developed further at the pilot locations: its development is therefore a necessary 'transitional stage', before a working method can be implemented nationally.