

## Summary

### Reoffending after forensic care in The Netherlands

In this report we present for the first time reoffending rates for the entire forensic care sector. Previous recidivism research relating to forensic care has been limited to the tbs measure (*terbeschikkingstelling*: disposal to be treated in a forensic hospital on behalf of the state) and the ISD measure (*Inrichting voor Stelselmatige Daders*: detention in an institution for persistent offenders). These measures represent a small percentage of those who have received forensic care. Consequently, this is the first report which examines reoffending rates for more than 90% of those who have received forensic care during their time in the judicial system.

In 2007, a new system for the forensic care sector was introduced in The Netherlands. Under the new system, forensic care is defined as mental health care, substance abuse treatment and care for the intellectually disabled provided within the criminal justice system. During the same period, responsibility for the entire forensic care system was transferred to the Dutch Ministry of Justice and Security, which previously had only been responsible for the tbs measure. Following these changes, the WODC was asked to extend their periodic reports on reoffending following the tbs measure to include reoffending following all other forensic care orders. After completion of an initial feasibility study, the first step towards this goal was taken in 2015 with the introduction of the ISD measure to the WODC Recidivism Monitor. In 2016 the WODC began the five-year project *Recidivism research for the forensic care sector*. One goal of this project is the extension of WODC recidivism research to cover reoffending rates related to all remaining forensic care orders.

Since the 1990s, the Dutch forensic care sector has seen a sharp increase in the capacity and type of care provided. Currently, forensic care includes, besides care that falls under the tbs measure, care within the prison system and care within forensic care institutions. These institutions cover a range of different security levels and treatment specializations and include forensic psychiatric clinics and departments, forensic outpatient clinics, forensic substance abuse clinics, clinics for offenders with and mild or borderline intellectual disabilities, and assisted living services for forensic clients. Forensic care is provided under a number of different judicial orders. These can be categorised as orders related to the tbs measure, the ISD measure, orders to receive forensic care during a prison sentence, orders to receive forensic care as a condition or requirement of a conditional sentence and miscellaneous orders. Table S1 provides an overview of the forensic care orders.

**Table S1 The forensic care orders**

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| <i>Orders relating to the tbs measure</i>   |
| 1 Unconditional Tbs order   |
| 2 Temporary placement in a psychiatric hospital   |
| 3 Transfer to a psychiatric hospital  |
| 4 Trial leave   |
| 5 Conditional release order   |
| 6 Supervision during trial leave  |
| 7 Supervision during conditional release order  |
| 8 Conditional tbs order   |
| 9 Provisional treatment order   |
| 10 Arrest order   |
| <i>Orders relating to forensic care during a prison sentence (including the ISD measure)</i>    |
| 1 Transfer from prison to psychiatric hospital  |
| 2 Transfer from prison to external care   |
| 3 Penitentiary programme with forensic care   |
| 4 Internal transfer to a prison psychiatric centre  |
| 5 Forensic care by external mental health service provider in prison                            |
| 6 ISD order   |
| <i>Orders relating to forensic care as a condition or requirement of a conditional sentence</i> |
| 1 Suspended sentence with forensic care as condition  |
| 2 Conditional suspension of pre-trial detention   |
| 3 Conditional discretionary dismissal   |
| 4 Penal order to receive forensic care  |
| 5 Conditional release on parole   |
| 6 Conditional pardon  |
| 7 Conditional ISD order   |
| <i>Miscellaneous orders</i>   |
| 1 Additional diagnosis order  |
| 2 Placement for pre-trial forensic psychiatric assessment                                       |
| 3 Hospital order  |
| 4 Intended referral to forensic care  |

At the outset of this project, knowledge of the number of individuals released into the community after forensic care was not available. However, it was clear that the tbs and ISD measures accounted for only a small minority of forensic care orders. Consequently, this project will for the first time detail reoffending rates for the vast majority of the forensic care provided in The Netherlands.

This research report focuses on the following questions:

- 1 How many individuals leave forensic care on a yearly basis?
- 2 How many of those who have received forensic care go on to reoffend?
- 3 Of those who reoffend, how often do they reoffend and with which offences?
- 4 Which background characteristics correlate with reoffending?

As this report is the first to examine reoffending rates for the remaining forensic care orders, i.e., other than the tbs and ISD orders, the validity of the method developed for this end will be evaluated.

## Method

The research group includes all individuals who received forensic care, and who were released from the judicial system, in the years up to and including 2014. Release from the judicial system refers to the end of an individual's path through the judicial system and not solely to the act of leaving a secure setting, such as a prison. Due to the availability of different data sources, reoffending rates for offenders released in years 1996-2014 are provided for the tbs measure; for the ISD measure reoffending rates for offenders released in the years 2009-2014 are provided; and for the remaining forensic care orders reoffending rates for offenders released in the years 2013 and 2014 are provided.

Different data sources are employed to determine the research groups and the release dates for the tbs orders, the ISD orders and the remaining forensic care orders. For the tbs group the Information Monitoring System for the tbs measure (MITS: *Monitoring Informatiesysteem Terbeschikking Stelling*) is used. For the ISD group the prison registration system Execution of Personal Penalties (TULP: *Ten Uitvoer Legging Persoonsgebonden straffen*) is used. For the group covering the remaining forensic care orders, data from four registration systems is combined, namely the Forensic Care Information System (IFZO: *Informatiesysteem Forensische Zorg*), the Billing Control System (FCS: *Facturatie Controle Systeem*), the billing system Discharges and Patient Flow within Forensic Care (RePaD: *Realisatie en Patiëntenstromen DForZo*) and TULP. Reoffending rates are calculated separately for each judicial order. In cases where several forensic care orders are completed by the same individual in a single period in the judicial system, the last forensic care order completed prior to release from the judicial system is used.

Reoffending rates for all the forensic care orders are calculated following the standard procedure for the WODC Recidivism Monitor. The Research and Policy Database for Judicial Documentation (OBJD), a pseudonymised version of the Judicial Documentation System (JDS), is used. Reoffending is operationalised as a criminal case resulting from an offence that takes place following release from a forensic care order. The criminal case must result in a guilty verdict or settlement by the public prosecutor. Three categories of reoffending are reported. General reoffending relates to all recidivism offences. Serious reoffending relates to offences whereby a maximum penalty of four years or more can be applied. Very serious reoffending relates to offences whereby a maximum penalty of eight years or more can be applied.

For each forensic care order survival analyses are used to calculate the percentage of reoffenders (reoffending prevalence) and the average number of offences per reoffender (reoffending frequency) within two years of release. In addition, for six groups of forensic care orders the development of reoffending prevalence over the first four years following release is examined. These groups consist of orders related to the tbs measure, forensic care in the prison system, orders where forensic care is provided as a condition or requirement under a conditional sentence, the ISD measure, the Hospital order and the Intended referral to forensic care order.

Finally, using Cox regression the correlation between reoffending and the following background characteristics is examined: gender, age at release from forensic care, age at first conviction, number of previous convictions, type of offence for which the forensic care order was imposed, and a prison stay during the period in the judicial system.

## Main Findings

### Data on yearly release from forensic care

The number of individuals released from forensic care is estimated to be 5,700 in 2013 and 6,700 in 2014. Of these, roughly 65% are released from orders where forensic care is imposed as a condition or requirement, 18% from orders where forensic care is provided within the prison system, 10% from the ISD measure and 3.5% from the tbs measure. The most common forensic care order, with around 43% of individuals released from forensic care falling under this order, is the Suspended sentence (article 14a, WvSR).

### *Reoffending following forensic care*

#### **ISD**

The group who receive forensic care as part of the ISD measure has the highest reoffending rate. Nearly 80% reoffend at least once within two years of release. On average, they commit five offences during this two year period, with roughly 20% committing a very serious offence. Following this two year period, however, the percentage of reoffenders increases only sporadically. Since 2009, when reoffending rates for the ISD measure are first reported, the percentage of reoffenders within two years of release has increased by 7 percent (from 68% to 75%).

#### **Tbs**

The reoffending rates by those released from the tbs measure is low compared to the rest of the forensic care groups. Within two years of release roughly 19% of those released from the unconditional tbs and 23% of those released from the conditional tbs reoffend. Furthermore, only 4% and 5% respectively reoffend with a very serious offence. The number of offences committed in the first two years following release from unconditional tbs has fallen sharply since 2008, from 2.7 offences to 1.7 offences per reoffender. This whilst the number of reoffenders has remained more or less constant. There are no clear trends in the reoffending rate following the conditional tbs order. For the most recent release cohort (2010-2014), the percentage of ex-tbs patients reoffending with a very serious offence has increased. However, it is too early to determine whether this is a fluctuation or the beginning of a trend.

#### **Forensic care orders other than tbs and ISD**

Forensic care provided as part of an unconditional prison sentence covers internal transfers to prison psychiatric centres, care within prison by external forensic care providers, transfers to external forensic care providers, and forensic care outside of prison provided as part of a penitentiary programme. For the entire group who received forensic care as part of an unconditional prison sentence, nearly 55% reoffend within two years of release, of which over 10% commit a very serious offence. On average each reoffender commits three offences. The percentage of reoffenders, the average number of new convictions and the seriousness of the offences committed is higher for this group than for the entire group of ex-prisoners. However, this finding should not be used to draw conclusions concerning the effectiveness of forensic care, due to likely differences between the two groups in terms of characteristics known to increase the risk of reoffending.

The group of orders whereby forensic care is imposed by the court or public prosecutor as a special condition sees lower reoffending rates. On average 35% of this group reoffends within two years of release. On average each reoffender commits 2.3 offences and very serious offences are rarely seen. The reoffending rate for this

group is in line with that of Dutch probationers in general. The order Conditional discretionary dismissal, which falls within this group, has the lowest reoffending rate, namely 20%. The reoffending rates for the Release on parole and Conditional suspension of pre-trial detention orders, for which prison stays are conditionally terminated, are noticeably higher at 45%.

Conclusions cannot be drawn as to the effectiveness of the different forensic care orders based on differences in reoffending rates, as the groups receiving the different orders differ in their risk of reoffending prior to receiving care.

### *Validation of the research method for forensic care orders other than tbs and ISD*

In this report reoffending rates for forensic care orders other than the tbs and ISD orders have for the first time been calculated. In order to do this, data from a number of different registration and billing systems, not previously used for recidivism research, have been linked together. Therefore, a validation test of the novel method used for these forensic care orders was carried out. From this the following important conclusions are drawn:

- Reoffending rates have been accurately calculated for the individuals included in the research groups for the remaining forensic care orders.
- A small group with a higher reoffending rate is missing from the research groups. Consequently, actual reoffending rates have been underestimated by 1-4%. The underestimation is higher for orders with lower reoffending rates.
- Missing data in the registration systems is the reason behind the incomplete research groups and consequent underestimation of reoffending. In the future, planned changes to the registration system and the use of supplementary data sources will likely provide a solution to the missing data and consequent underestimation of reoffending.

### *Factors which correlate with reoffending*

Finally, differences in (background) characteristics between those who reoffend and those who do not reoffend were examined. Across all the forensic care orders reoffending correlates significantly with gender, age and country of birth. The risk of reoffending is higher for males and for those born outside the Netherlands. The risk of reoffending decreases as age at release from the forensic care order increases.

Criminal history also correlates with reoffending. The risk of reoffending increases as the number of previous convictions increases and as the age at first conviction decreases. When a forensic care order has been imposed following a sex offence, the risk of reoffending is considerably lower.

Spending time in prison during a forensic care trajectory is strongly correlated to recidivism. If an individual's period in the criminal justice system includes at least one prison stay, the risk of reoffending increases by a factor of two and the risk of reoffending with a very serious offence increases by a factor of three. If the prison stay falls at the end of the forensic care period, the risk of reoffending increases by another 50%.

When considering the above findings, it is important to note that a statistical correlation does not imply a causal relationship.

### *Further developments in recidivism research for the forensic care sector*

This initial report from the WODC research programme *Recidivism research for the forensic care sector* presents, for the first time, national reoffending rates for more than 90% of the population released from forensic care orders. In the coming years, periodic reports on reoffending for cohorts released in the years following 2014 will be able to show trends in reoffending rates for this population. In addition, the research programme will focus on extending the scope of and providing context for reoffending rates following forensic care. Specifically:

- 1 In the current report reoffending rates are presented based on the forensic care orders imposed. The next step is to present reoffending rates based on the type of forensic care provided, for example, inpatient and outpatient care.
- 2 The current report is limited to offences committed following release from the judicial system, once forensic care has ended. However, it is possible that reoffending takes place whilst an order is still in place. In future research, reoffending that takes place during as well as following a forensic care order will be examined.
- 3 Situational factors following release from forensic care have not been examined in the current report. Most importantly, regular care on a voluntary or civil law basis, following the end of forensic care may influence the risk of reoffending. In the future, we shall attempt to include this factor into research into reoffending following forensic care.