

Summary

Final evaluation of Unit 3 in the Pieter Baan Centre Is there any merit in a separate ward for defendants who refuse to participate in pre-trial forensic psychiatric evaluation?

The present study involves the process- and effect evaluation of a special ward for defendants who refuse to participate in pre-trial forensic psychiatric evaluation in the Pieter Baan Centre (PBC). The PBC is a detention center in the Netherlands in which defendants accused of committing a serious crime are examined for possible mental disorders related to the crime. The aim of the study was to contribute to the solutions of the problem of defendants refusing pre-trial evaluation. Defendants who refuse to participate in pre-trial forensic psychiatric evaluation can be sent to the PBC in order to determine if any, and if so which, mental disorders were present at the time they committed the alleged offence(s). Most defendants that need a mental health evaluation are examined by a psychologist or psychiatrist who visits them in the pre-trial detention center (ambulatory assessment). Some of the defendants need more intensive observation and are admitted to the PBC for a period of six weeks. However, not all defendants participate in this examination. The refusal is their legal right because they do not have to participate in their own conviction. This may be problematic because insight into the defendants' state of mind during their crime may be limited. This in turn may be problematic because not all offenders are then placed in the right system: with treatment if a disorder is diagnosed, usually in the forensic mental health system, and without treatment if no disorder is diagnosed, in the prison system. For the duration of one year in the PBC a special ward was set up to specifically attend to defendants who refuse to participate in the evaluation, called Unit 3. The main goal of Unit 3 is to gather as much information about a defendant who refuses to participate in forensic psychiatric evaluation as possible, in order to adequately write a complete forensic psychiatric evaluation report. In this report, five hierarchically sorted questions are answered: Is there a mental disorder or not and if so, which one(s)? Was there a mental disorder at the time of the alleged crime? Does the disorder influence the crime that was committed? What is the risk of recidivism? Is a behavioral intervention necessary or is punishment in prison advised? The regular examination process was altered in such a way that the PBC expects to observe more behavior from the defendant and thereby will be able to write a more complete forensic psychiatric evaluation report and to answer more of the courts' questions. Furthermore, it was expected that upon placement on the unit, some defendants may start to participate. Defendants were eligible for placement on Unit 3 if they met three inclusion criteria: the defendant refuses to participate in diagnostic interviews by psychologists and psychiatrists, there are mainly concerns regarding possible personality disorders (as opposed to active psychotic symptoms), and the transfer to Unit 3 will not interfere with the forensic psychiatric evaluation process. The defendants were first admitted to a regular ward within the PBC, after which they could be signed up for a transfer to Unit 3 by the examining team. Each defendant is examined by a multidisciplinary examining team that consists of a psychologist, a psychiatrist, a forensic psychiatric nurse who reports on the defendants' behavior on the ward, a lawyer, a forensic social network analyst who looks into the forensic psychiatric social network of a defendant and a process psychologist or psychiatrist. The latter is a psychiatrist or

psychologist who is not involved in the primary assessment process but guides the assessment process from more of a distance, by participating in the case discussions and by asking questions preventing tunnel vision. The set up of Unit 3 was examined in the evaluation of the plans that was also conducted by the WODC and has been published before.¹⁵ The implementation of the plans in daily practice and the effectiveness of the ward were examined in the present study.

Goals and research questions

The goals of the present study are:

- 1 To determine the effectiveness of the special ward for defendants who refuse to participate in pre-trial forensic psychiatric evaluation, Unit 3, that has been set up for the duration of one year. The effectiveness is mainly determined by examining the amount of questions that are answered in the pre-trial evaluation report.
- 2 To determine the factors that are connected (positively or negatively) to writing a more full evaluation report.
- 3 To analyze the way in which possible success factors are integrated in the regular observation process of the PBC.

The research questions are:

Evaluation of the implementation process

- 1 How were the plans for the set up of the ward implemented in daily practice? Which plans were executed and which plans were not?
- 2 Which circumstances promoted the implementation of the plans and which circumstances complicated the implementation process?

Evaluation of the effectiveness

- 3 Did the alterations in the observation process on Unit 3 lead to more complete pre-trial evaluation reports?
- 4 Which factors are connected to the success or failure of Unit 3?
- 5 Can possible success factors be integrated in the regular observation process in the PBC? Are supplemental legal measures necessary for such an implementation?

Methods

For the evaluation of the implementation process we conducted semi-structured interviews, we participated in meetings and the PBC was regularly visited. In the evaluation of the effectiveness of the unit, the group of defendants who refused pre-trial forensic psychiatric evaluation who were placed on Unit 3 were matched and compared to a group of 47 defendants who have refused to participate in forensic psychiatric evaluation prior to the opening of the special ward (in 2012-2016). Two instruments were developed: an evaluation questionnaire and an observation list. In the evaluation questionnaire 11 questions on the defendants were posed. These questions regarded demographic background (age at the time of the study, gender, country of birth), prior tbs-orders (which incorporates treatment in a judicial context), prior admittance to the PBC, the trajectory a defendant has gone through

¹⁵ Nagtegaal, M.H. (2018). *Weigerende observandi op een speciale afdeling in het Pieter Baan Centrum: Planevaluatie en bevindingen over het eerste half jaar [Defendants who refuse to participate in pre-trial forensic psychiatric evaluation in the Pieter Baan Centre. Evaluation of the plans and results on the first six months]*. Den Haag: WODC, Cahier 2018-7.

prior to admittance to the PBC, for instance if an ambulatory visit of a psychologist and/or psychiatrist was also part of the examination, and if prolongation of the observation process was considered and granted. In the observation checklist, we studied in a standardized manner which activities the defendants participated in. The other sources that were used to determine the effectiveness of Unit 3, are the forensic psychiatric assessment reports and the verdicts of the defendants. The results are discussed in four sections: results regarding only the defendants on Unit 3, results regarding defendants of Unit 3 in comparison to the control group, results among the defendants of Unit 3 with versus without a diagnosed disorder and/or a treatment advice (first post-hoc analysis), and results on the other defendants who refused to participate the assessment and were admitted to the PBC during the period of the pilot, but were not admitted to Unit 3 (second post-hoc analysis). The post-hoc analyses were conducted to detect possible additional factors related to the success or failure of Unit 3 (first post-hoc analysis) and to rule out that a selection effect in favor of Unit 3 influenced the pilot (second post-hoc analysis). The hypothesis that was examined in the second post-hoc analysis was that only the defendants who did not refuse to participate very firmly were sent to Unit 3, thereby generating more results for Unit 3. If this were the case, the pilot would have been less reliable.

Results

The main results are summarized by answering the research questions. For an overview of other important findings, the reader is referred to Chapter 4.

Research questions regarding the implementation process

*1 How were the plans for the set up of the ward implemented in daily practice?
Which plans were executed and which plans were not?*

From the evaluation of the implementation process, it is concluded that most ideas as set out in the plans behind the unit, were implemented in the way they were set up. This was the case for five of the seven themes and for seven of nine supposed working mechanisms: the ward was set up as a therapeutic community, employees with extra forensic psychiatric expertise were involved in the program, thereby allowing for an exchange of experiences and expertise, the daily program on the ward was attractive and set up in a flexible manner, the common space in the ward was set up as an enticing environment and the daily program was more extensive, there was little room for hiding behind intensive care or attention-seekers and there was extra focus on and attention for one specific subgroup of defendants. Two of the supposed working mechanisms were (almost) not implemented in daily practice. These are the substantial prolongation of the duration of the observation time and the multidisciplinary expansion of the program. Therefore these parts of the program can not be examined for efficacy.

2 Which circumstances promoted the implementation of the plans and which circumstances complicated the implementation process?

The substantial prolongation of the observation period has become legally possible from the 1st of July 2018, which was after the pilot ended. This has complicated the application of the prolongation of the observation period during the pilot (which was from April 2017 to April 2018). In practice, sometimes a judge did and sometimes a judge did not allow prolongation with a substantial amount of weeks. When a defendant did not object to the prolongation it was easier to allow for prolongation. The main reason hardly any observation periods were substantially prolonged however, was that the staff did not expect to find many more results of the prolongation.

There was not much attention directed at the multidisciplinary expansion of the pilot, the focus was on intensifying the observation process. Also, there were individual differences between the researchers (psychologists and psychiatrists) who sometimes did and sometimes did not invest extra time and effort to the defendants on Unit 3. Up front, the framework was thought through and due to the judicial setting, there was not much room for big alterations to the program.

Research questions regarding the effectiveness study

3 Did the alterations in the observation process on Unit 3 lead to more complete pre-trial evaluation reports?

The pre-trial evaluation reports of the defendants who stayed at Unit 3 were more complete than the pre-trial evaluation reports of the defendants in the control group. This is true for all 10 comparisons that were made between these individuals. However, for most of the comparisons, 6 out of 10, the difference between the groups was not (or almost) significant. Therefore the ward has been deemed preliminary successful. The number of defendants for whom disorders could be excluded and the number of defendants for whom the risk of recidivism generally speaking could be determined, were significantly higher for defendants who stayed at Unit 3 in comparison to the control group. The number of defendants for whom it could be determined that the mental disorder was present at the time of the crime was higher for the defendants of Unit 3 and this difference was almost significant. The number of defendants for whom hypotheses of the disorders were formed could not be statistically compared due to the low number of defendants without any hypotheses. The other differences in the pre-trial evaluation reports are not significant: the number of defendants for whom disorders could be diagnosed, the number of defendants for whom the effect of the mental disorder on the crime could be determined, the number of defendants for whom the level of criminal responsibility could be determined, the number of defendants for whom the risk of recidivism based on their psychopathology could be assessed, the number of defendants for whom a treatment advice could be formulated and the total amount of information in the pre-trial evaluation reports (all questions added). The finding that the reports on the defendants who stayed at Unit 3 are higher than those in the control group for the entire pilot are similar to those of the first six months.

The hypothesis that the least resistant refusing defendants were sent to Unit 3, thereby generating a selection effect in favor of the pilot, was not confirmed. This is shown in the results of the group of defendants who refused to participate and stayed in the PBC during the same year as the pilot, however, who were not sent to Unit 3. Their pre-trial assessment reports were more complete than those of the Unit 3 group (4 out of 5 comparisons). Two differences approach significance: the number of defendants for whom it was possible to determine a mental disorder and the number of defendants for whom it was possible to determine the influence of the disorder on the crime (both lower on Unit 3). The other three differences are not significant: the number of defendants for whom it could be determined that the mental disorder was present at the time of the crime, the number of defendants for whom the level of criminal responsibility could be determined, and the number of defendants for whom a treatment advice could be formulated (the last being somewhat higher on Unit 3). For the other standard questions in the pre-trial report there were no data available to compare the two groups. These results were found in spite of a significant longer time of stay in the Unit 3 group as compared to control group 2, which is associated with the amount of information in the pre-trial assessment reports (also see below). This confirms that the hypothesis was not correct and the opposite occurred: the most firmly refusing defendants were sent to Unit 3.

4 Which factors are connected to the success or failure of Unit 3?

There are not many significant differences among the factors that were studied. Therefore limited factors can be identified as connected to the preliminary success of the ward. Three types of analyses were conducted, in which sometimes significant results were found and sometimes not on the same factors. In other cases, the difference could not be tested, because the requirements of the statistical test could not be met. The first two sets of comparisons, between Unit 3 and control group 1 and those between defendants of Unit 3 with and without a more complete pre-trial assessment report, regard factors possibly related to the preliminary success of the ward. The third comparison, between Unit 3 and control group 2 regards the possible selection effect and has been described above (at question 3).

Significant differences between the defendants of Unit 3 and control group 1 in the total length of stay in the PBC suggest a more complete pre-trial assessment report when the observation period lasts longer.

Significant differences among defendants of Unit 3 with and without a diagnosed disorder and/or a treatment advice show a relation between some activities and the pre-trial assessment report. The defendants with a diagnosed disorder participate less in common cooking activities and more in visits and spiritual guidance.

Besides significant findings there is a number of findings that approach significance. These are therefore factors that are possibly related to the pre-trial assessment report. For the defendants of Unit 3 the professionals more often used police mutations as a source of input for their report. The defendants of Unit 3 for whom it was possible to determine a mental disorder were somewhat more often involved in an incident (of mild nature) and they participated less in the activity of listening to or making of music.

Finally there are some factors that could not be examined for statistical significance due to statistical testing restraints but show a difference in absolute numbers. These are therefore factors that should be examined further in order to determine their relation with the pre-trial assessment reports. The number of incidents is less in the Unit 3 group as compared to control group 1. The defendants with versus those without a more complete pre-trial assessment report were more often born in a western country (diagnosed disorder and treatment advice). Also, there are more defendants with a more complete pre-trial assessment report with a lower IQ (<85, disorder) and they have more often been through ambulatory assessment than those who have an incomplete pre-trial assessment report. Defendants with a diagnosed disorder or with a treatment advice, more often are imposed a tbs-measure, disposal to be treated on behalf of the state. Finally, it appears that the pre-trial assessment reports are more complete when there is more dynamics at the ward. This was determined by examining the months in which the defendants with a complete pre-trial assessment report to the months that most defendants stayed at the ward.

All other factors, age at the time of admission, gender, intelligence, the number and type of alleged crimes, prior ambulatory psychiatric assessment, prior PBC-assessment, prior tbs-measure, length of stay in Unit 3, other available data sources, and participation in other activities than those mentioned earlier are not related to the pre-trial assessment reports. Finally, we found a significant difference in the reasons behind participation refusal, this happened more often at the advice of a lawyer.

5 Can possible success factors be integrated in the regular observation process in the PBC? Are supplemental legal measures necessary for such an implementation?

Given the fact that few decisive factors have been found in the present study, it is not possible to determine if the factors can be implemented in the regular observa-

tion process of the PBC. Likewise, it is also difficult to pinpoint ways in which the observation process should be altered. The factors that do show significant differences, the factors that approach significance and the factors that show differences in absolute numbers, can be taken into consideration in setting up a new special ward for defendants who refuse to participate or implementing these factors throughout the PBC. The pre-trial assessment reports resulting from this implementation should be monitored in order to determine success or failure of these factors.

It is possible that the preliminary success of Unit 3 is related to other factors, that were not studied. Further, the limited scale of the pilot limited studying the factors behind it. If more defendants were involved in the pilot, additional analyses could have been performed. Other limiting factors are less clear. The legal requirement for prolonging the observation period was only realized after the pilot had ended, therefore this supposed working mechanism could not be studied. This may also be a fact that should be studied further, also because a longer time of stay in the PBC was related to more complete pre-trial assessment reports.

Conclusion

The conclusions on Unit 3 are:

- 1 From the evaluation of the implementation process it appears that most of the plans behind the unit were executed in practice.* From the evaluation of the implementation process, it is concluded that most ideas as set out in the plans behind the unit, were implemented in the way they were set up. This was the case for five of the seven themes and for seven of nine supposed working mechanisms: the ward was set up as a therapeutic community, employees with extra forensic psychiatric expertise were involved in the program, thereby allowing for an exchange of experiences and expertise, the daily program on the ward was attractive and set up in a flexible manner, the common space in the ward was set up as an enticing environment and the daily program was more extensive, there was little room for hiding behind intensive care or attention-seekers and there was extra focus on and attention for one specific subgroup of defendants. The of the supposed working mechanisms were (almost) not implemented in daily practice. These are the prolongation of the duration of the observation time and the multidisciplinary expansion of the program. Therefore these parts of the program can not be examined for efficacy.
- 2 More questions in the pre-trial assessment reports of the Unit 3 group are answered as compared to control group 1 (10 out of 10 comparisons), however, the difference is not significant for most of the questions (6 out of 10 comparisons).* The number of defendants for whom disorders could be excluded and the number of defendants for whom the risk of recidivism generally speaking could be determined, were significantly higher for defendants who stayed at Unit 3 in comparison to the control group. The number of defendants for whom it could be determined that the mental disorder was present at the time of the crime was higher for the defendants of Unit 3 and this difference was almost significant.
- 3 Due to three reasons, Unit 3 is deemed preliminary successful, in spite of a limited amount of significant findings.* First, we found a selection effect in the PBC, where in contrast to the post-hoc hypothesis that the least firmly refusing defendants were admitted to the special ward, the most firmly refusing defendants were sent to Unit 3. This makes it more difficult to write complete pre-trial assessment reports for these defendants. This is shown in the results: on Unit 3 the pre-trial assessment reports could be completed for less defendants than for

the defendants who refused to participate but were sent to the regular units. Second, in the plans behind the unit it was determined that the unit would be set up for the defendants for whom it was most difficult to complete the pre-trial assessment report. For these defendants, other approaches were set up in order to try to write a more full pre-trial assessment report. This is shown in the inclusion criteria. That the inclusion criteria were followed in practice the way they were set up in the plans, can be seen in a high score on the activity listing for the amount of time the defendants spent in their cell (the third highest score). Third, due to the limited amount of participants in all groups, it is harder to detect significant differences. These reasons show that the results in the pre-trial assessment reports of Unit 3 can already be regarded as positive when they equal those in the control group. As described above, the Unit 3 assessment reports were not only equal to but more complete than the assessment reports of the control group.

- 4 *There are not many factors that show significant differences, therefore not many factors can be pinpointed as related to the completeness of the pre-trial assessment reports.* The factors that do show significant differences, the factors that approach significance and the factors that show differences in absolute numbers, can be taken into consideration in setting up a new special ward for defendants who refuse to participate or implementing these factors throughout the PBC. The pre-trial assessment reports resulting from this implementation should be monitored in order to determine success or failure of these factors. Significant differences between the defendants of Unit 3 and control group 1 in the total length of stay in the PBC suggest a more complete pre-trial assessment report when the observation period lasts longer. Significant differences among defendants of Unit 3 with and without a diagnosed disorder and/or a treatment advice show a relation between some activities and the pre-trial assessment report. The defendants with a diagnosed disorder participate less in common cooking activities and more in visits and spiritual guidance.