

De strafmaat voor jeugdige daders van
ernstige gewelds- en zedenmisdrijven
in internationaal perspectief

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Summary

A COMPARATIVE STUDY INTO THE SENTENCING OF YOUTH OFFENDERS WHO HAVE COMMITTED SERIOUS VIOLENT AND SEXUAL OFFENCES

Reason and aim of this study

This report presents the results of a multidisciplinary study into the sentencing of youth offenders who have committed serious violent or sexual offences. It has been conducted by a group of independent researchers. This study is conducted in the context of current political discussion concerning the maximum duration of youth detention in the Netherlands.¹ The aim of this research is to provide insight into the sentencing of youth in various European jurisdictions, as well as to explore the extent to which the findings should lead to an adjustment of the Dutch criminal law approach to youth who are convicted of a serious violent or sexual offence. This study considers the legal framework and practices in the Netherlands and five other European countries, namely Belgium (Flanders), Germany, England & Wales, Ireland and Sweden, concerning the sentencing of youth offenders (12-23 years) of serious violent or sexual offences. Moreover, a systematic literature review has been conducted concerning the outcomes of sentences imposed on youth offenders of serious violent or sexual offences and it is attempted to gain insight into the effectiveness of imposed sentences, in particular in relation to recidivism, in the selected countries. The international and European children's and human rights framework, to which the Netherlands and the other countries in this study have committed themselves, serves as the overarching normative framework of this study.

Research question and sub-questions

The central research question of this study is:

Which sentences are applied in the Netherlands and other European countries to youth of 12 to 23 years of age who have committed a serious violent or sexual offence, what is the effectiveness of these sentences and how do these relate to international and European children's and human rights standards?

¹ *Parliamentary Papers II 2019/20, 28741, no. 72.*

This central question is answered on the basis of the following five sub-questions, of which the last one specifically calls for reflection on the Dutch criminal law's approach towards youth who are convicted of a serious violent or sexual offence.

I Which principles follow from the international and European children's and human rights framework concerning the sentencing of youth who have committed serious violent or sexual offences?

To answer sub-questions II-V a comparison is made between the Netherlands and five European countries, i.e. Belgium (Flanders), Germany, England & Wales, Ireland and Sweden.

II What are the similarities and differences between the Netherlands and the other five selected European countries regarding the sentencing of serious violent and sexual offences committed by youth, based on national law and standards?

III Which sentences are imposed by judges in the Netherlands and the other five selected European countries when a youth is convicted of a serious violent or sexual offence and which legal reasoning plays a role in this regard?

IV What is known about the effectiveness of the imposed sentences to youth offenders of serious violent and/or sexual offences, particularly concerning recidivism?

- 1. Are there differences in effectiveness for intra- and extramural (i.e. custodial and non-custodial) sentences and measures?*
- 2. Is there a relation between length of detention and effectiveness?*

V To what extent do the results under sub-questions I to IV give reason to amend the Dutch criminal law approach to youth aged 12 to 23 who are convicted of a serious violent or sexual offence?

The qualification 'serious violent or sexual offence' is limited in this study to the following offences: (attempted) murder, (attempted) manslaughter, violence resulting in serious bodily injury or death and rape. These types of offences involve a high degree of harm and wrong against the victim and there is a high degree of public interest and concern for public safety.

Methods

In this study various methods of research are employed, depending on the sub-question, in order to come to an answer to the central research question. In short, sub-question I is answered based on studying the UN Convention on the Rights of the Child (CRC) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and related case

law, commentaries and literature. Sub-questions II and III are answered based on research into the national laws and standards, literature and case law regarding serious violent and sexual offences committed by youth in the selected European jurisdictions. Sub-question IV is answered based on a systematic literature review and statistical analysis of secondary data regarding dispositions of serious violent and sexual offences committed by youth and regarding recidivism. Moreover, experts from the selected countries have been consulted to verify the research results and a joint expert meeting has taken place.

Answers to the sub-questions

I Which principles follow from the international and European children's and human rights framework concerning the sentencing of youth who have committed serious violent or sexual offences?

In chapter 2 of this report the relevant international and European children's and human rights framework concerning the sentencing of youth who have committed a serious violent or sexual offence has been outlined. On the basis of the CRC and the UN Committee on the Rights of the Child's General Comment No. 24, four pillars of a children's rights compliant youth justice system have been identified, namely: (1) humane treatment, (2) child specific treatment, (3) fair treatment and (4) treatment aimed at reintegration into society.

These pillars relate to the rights and interests of the youth defendant or offender, but at the same time do not deny the interests of society and the rights and interests of victims (including victims' relatives) within the youth justice system. In this study the interests of society and the rights and interests of victims have been explicitly engaged in the analysis of the children's and human rights framework. The CRC Committee emphasises that the preservation of public safety is a legitimate aim of a youth justice system and that states should aim at taking into account the obligation to protect the principles as enshrined in the CRC. Moreover, it is of importance that through the (youth) justice system the disapproval of the offence from society is communicated to the offender, in order to prevent frontier justice from taking place. Also, it is of importance that justice for victims is achieved, without resulting in only retribution and long-term deprivation of liberty of the offender. The rights and interests of victims need to be taken seriously in youth justice, for example by having victims participate effectively in the criminal proceedings, to provide them with professional support and the possibility to claim for compensation.

Based on the international children's and human rights framework, the following principles and benchmarks for the sentencing of youth who are convicted of a serious violent or sexual offence can be formulated:

- 1) Sentences should be proportional to the seriousness and the circumstances of the offence, taking into account the lesser culpability of the child;

- 2) Sentences should be specifically designed for children and young people, taking into account their age, interests and evolving capacities;
- 3) Sentences should not solely be punitive in nature;
- 4) Sentences should be adapted to the individual circumstances of the child and cannot provide a mandatory minimum;
- 5) Deprivation of liberty can only be used as a last resort and for the shortest appropriate period of time;
- 6) Deprivation of liberty of children should be considerably shorter in duration compared to the sentences that can be imposed on adults for the same offence and cannot result in life imprisonment;
- 7) Deprivation of liberty should take place in facilities that are suitable for the age, maturity and interests of children and young people; and
- 8) Sentences should be aimed at the reintegration of children into society, so that the child can take a constructive role in society and does not re-offend.

Taking into account these eight children's and human rights principles, as well as the rights and interests of society and victims, the national legislator and judiciary should determine what a proportionate and suitable (maximum) sentence or measure entails for youth² who are convicted of a serious violent or sexual offence. This requires a delicate balancing of interests aiming at an effective response that is in line with the goals of the criminal justice system (going beyond retribution and prevention of recidivism) and proportional and suitable for youth offenders of serious offences.

II What are the similarities and differences between the Netherlands and the other five selected European countries regarding the sentencing of serious violent and sexual offences committed by youth, based on national law and standards?

In chapter 3 of this report insight is given in the similarities and differences between the Netherlands and the other five countries (Belgium (Flanders), Germany, England & Wales, Ireland and Sweden) concerning the legal frameworks for sentencing of youth offenders of serious violent or sexual offences, based on legal comparative research. This has led to four main results:

- 1) A difference has been observed between so-called *common law* (England & Wales, and Ireland) and *civil law* countries (Netherlands, Belgium, Germany and Sweden). The common law countries can be characterised

2 The children's right principles are applicable to offenders who were below the age of 18 when committing the offence (art. 1 CRC). However, according to the CRC Committee these do also apply to young adults who are sentenced according to youth criminal law (General Comment No. 24, para. 32).

as more punitive, which results in a lower minimum age of criminal responsibility (10 years), and lengthier detention sentences, that can be imposed from this young age. In England & Wales (and possibly also in Ireland) a mandatory life sentence with a mandatory minimum of 12 years is imposed on offenders who are convicted of murder. In the civil law countries, the minimum ages of criminal responsibility are higher (12 years in the Netherlands and Belgium, 14 years in Germany and 15 years in Sweden). Moreover, in Belgium, Germany and Sweden a life sentence for children is excluded by law. In the Netherlands this is also excluded by law for children, however, in theory youth can be sentenced for life for a crime committed when under the age of 18, in case a placement in a youth treatment facility (*PIJ-maatregel*) is converted into a placement into a closed psychiatric treatment facility for adults (*TBS-maatregel*). Youth from the age of 16 can also be sentenced to this latter treatment measure, when sentenced according to adult criminal law.

- 2) In five out of the six countries it is possible for children to be sentenced according to adult criminal law or to impose sentences that are comparable to adult criminal sentences. The Netherlands is the only country in which youth can be placed in an adult prison when sentenced according to adult criminal law. In Germany sentencing children according to adult criminal law is excluded by law.
In the Netherlands (until 23 years), Germany and Sweden (until 21 years) young adults can be sentenced according to youth criminal law. In Germany the general rule is applied to sentence young adults according to youth criminal law, whereas in the Netherlands and Sweden this is applied as an exception to young adults who meet certain criteria.
- 3) This study shows that comparing and explaining the length of sentences across jurisdictions is a complex exercise. The Dutch youth justice system makes a difference between sentences and measures and typically measures add to the length of deprivation of liberty, whereas the maximum term of youth detention is relatively short (one or two years). This reflects the emphasis on treatment, in order to prevent recidivism, instead of on (proportional) retribution. In the common law countries, the emphasis lies more on punishment and retribution. However, this does not automatically mean that the sentences in the Netherlands are less invasive or lengthy. Moreover, it has become clear that in England & Wales, Ireland, Germany and Sweden, youth can be early released on conditions, which is not possible for youth in the Netherlands (only when they have been sentenced according to adult criminal law).
- 4) Finally, this study shows that the sentencing of youth offenders of serious violent or sexual offences is subject to heated debate in all selected countries. The central research question of this study is therefore also of high relevance in the other countries, as confirmed by the international experts involved in this study.

III Which sentences are imposed by judges in the Netherlands and the other five selected European countries when a youth is convicted of a serious violent or sexual offence and which considerations play a role in this regard?

Chapter 4 gives an insight into the sentences that are imposed in the selected countries, based on an analysis of judgments from the Netherlands, Belgium (Flanders), Germany, England & Wales, Ireland and Sweden, in cases of youth convicted of serious violent and sexual offences.³ The descriptive analysis of judgments aims at giving an impression of the sentencing of these types of crimes in the Netherlands and the other selected countries, in order to paint a picture of how national law and standards are implemented in practice. This has led to five main outcomes:

- 1) The analysis of judgments shows that murder, manslaughter and rape in the selected cases are invariably sentenced with deprivation of liberty. The reasoning of the judges shows that alternative, community sanctions are not suitable, as a result of the seriousness of the offence.
- 2) A difference in length of sentences has been observed between the common law and civil law countries. The more punitive approach in the common law countries is also reflected in the sentences that are actually imposed; in ten out of 11 cases analysed for England & Wales the maximum detention sentence of 12 years was exceeded, with a maximum of 19 years. These types of lengthy sentences have not been observed in the Netherlands, Germany and Sweden, with the exception of the sentencing of 16- and 17-year-olds in the Netherlands according to the adult criminal law. When taking into account the possibility to extent the treatment measure in the Netherlands, the length of deprivation of liberty does not differ substantially compared to the other countries in similar types of cases.
- 3) It has been observed that more judicial discretion in sentencing can be seen in the relatively – compared to murder, manslaughter and rape – less serious cases (i.e. assault, violent robbery, sexual abuse). In these cases, more often judges choose not to strongly mitigate the sentence or to even not impose deprivation of liberty. In the Netherlands, England & Wales and Germany the length of detention is determined based on aggravating and mitigating circumstances. In Sweden, sentence reduction takes place on the basis of the age of the youth and when this results in less than four years, the youth will be placed in a closed youth care facility.
- 4) In relation to this, in Sweden, the personal circumstances of the youth only play a minor role in sentencing, compared to the Dutch, German and English judgments. In the latter countries, these circumstances can lead

³ In Belgium (Flanders) and Ireland, judgments are either not published or available in writing. Due to the Covid-19 pandemic it was not possible to travel to Belgium to look into to case files. Therefore, these countries are less extensively researched on this point and appear less prominently in the results of this section.

to longer or shorter sentences. In Germany, the length of the sentence is also based on shortcomings in the upbringing of the youth (*schädliche Neigungen*). This can also be observed in the Netherlands, in case a youth treatment measure is imposed, in which the personal circumstances and reports from experts play an important role. The difference between both countries is the fact that in Germany early release on conditions is possible, whereas in the Netherlands extension of the sentence is possible based on the treatment needs of the youth.

- 5) As indicated above the Netherlands is the only country in this study where sentences and measures, which may both entail deprivation of liberty, can be combined. This has complicated the legal comparison between the selected countries. Moreover, a *sec* comparison of duration of imposed sentences was not possible, because the actual implementation of sentences has to be taken into account. For example, for the Netherlands it was not possible to take into account the actual duration of the sentence after extensions of the youth treatment measure, which might have resulted in an incomplete image of the actual duration of deprivation of liberty.

IV What is known about the effectiveness of the imposed sentences to youth offenders of serious violent and/or sexual offences, particularly concerning recidivism?

Chapter 5 presents the results of the social scientific part of this study, focusing on the effectiveness of sentences imposed on youth offenders of serious violent or sexual offences, particularly concerning recidivism. More specifically, potential differences in effectiveness for intra- versus extramural (i.e. custodial and non-custodial) sentences and measures are examined, in addition to the relation between length of detention and effectiveness (i.e. recidivism reduction or prevention, and if possible, other indicators of successful reintegration). To this end, we conducted a systematic literature review. Furthermore, we sought to gather data to examine the effectiveness of imposed sentences, in particular in relation to recidivism, in the Netherlands and the five selected European countries.

Earlier (literature)research suggests a null- or criminogenic effect of youth detention, implying that detention is either not effective or increases the risk to engage in future criminal behaviour.⁴ Possibly, negative effects of detention are predominantly based on findings from research focusing on offenders of less serious crimes.⁵ Van Ham and Ferwerda concluded that deprivation of liberty does generally not result in less recidivism when compared to alternative sentences, with a possible exception for offenders of serious crimes. In

4 Nagin, Cullen and Jonson 2009.

5 Ogle and Turanovic 2019.

addition, they emphasized that deprivation of liberty can result in unintended side effects that may enlarge the negative impact of youth detention.⁶

The systematic literature review conducted in this study shows that research focusing on the specific subgroup of youth offenders of serious violent and/or sexual offences is scarce. Only a limited number of studies reported recidivism rates for this specific group, and even a smaller number reported on the relation between type of sentences and recidivism. With the exception of one single study, none of the included studies reported on other indicators of reintegration, such as mental health, education or work. Comparison across studies was complicated by the large variation in definitions of recidivism and in the follow-up periods employed. As such, findings should be interpreted with caution. Furthermore, as this study is based on correlation research, it does not allow for any causal conclusions on the effectiveness of sentences. The literature review has resulted in three key findings:

- 1) based on the limited available information, no differences in recidivism were demonstrated after intra- versus extramural sentences;
- 2) based on the limited available information, no significant association between detention length and recidivism was found;
- 3) with the exception of one single study, none of the included studies reported on outcomes other than recidivism. As such, relations between sentences and other outcomes were not examined.

We also sought to gather data to examine the effectiveness of imposed sentences in the Netherlands, Belgium (Flanders), Germany, England & Wales, Ireland and Sweden. For all countries with the exception of the Netherlands, it was not possible to obtain the requested information, either because relevant datasets were unavailable or because existing reports did not contain relevant information on the specific subgroup of this study. As a result, an international comparison of associations between sentence characteristics and outcomes was not possible.

With the Dutch data, provided by the Research and Documentation Centre of the Ministry of Justice and Security (WODC), we first described what sentences for youth offenders of serious violent or sexual offences were imposed. While the percentage of youth who received a custodial sentence is low when convicted of aggravated assault, and increases with age at the time of committing the offence (18-32%), custodial sentences are the most commonly imposed sanction when convicted of murder, homicide and / or rape (68-100%). The Dutch data allowed for examining the association between sentences and recidivism, which resulted in the following findings:

- 1) recidivism was more likely and faster after an intramural sentence or measure than after an extramural (i.e. non-custodial) sentence;

6 Van Ham and Ferwerda 2018.

- 2) for youth convicted of violence resulting in serious bodily injury or death, longer detention length was related to more recidivism. For youth convicted of murder, manslaughter or rape, longer detention length was related to less recidivism.

Yet, these findings do not allow for any conclusions on the effectiveness of intra- versus extramural sentences or length of detention. As judicial decisions on imposed sentences are based on considerations by the judge, it is likely that youth with higher risk to recidivate are more often imposed an intramural sentence with a longer duration.

V To what extent do the results under sub-questions I to IV give reason to amend the Dutch criminal law approach to youth aged 12 to 23 who are convicted of a serious violent or sexual offence?

In the final chapter 6 it is reflected on the question to what extent the results of this study give reason to amend the Dutch criminal law approach to youth aged 12 to 23 who are convicted of a serious violent or sexual offence, on the basis of three perspectives: (1) an international and European children's and human rights perspective, (2) a European comparative legal perspective, and (3) an effectivity perspective.

1) A children's and human rights perspective

The Dutch approach to the sentencing of youth who are convicted of a serious violent or sexual offence is largely in line with the requirements following from the international and European children's and human rights framework. Exceptions are the minimum age of criminal responsibility (which is with 12 years lower than the recommended 14 years by the CRC Committee) and the possibility to sentence 16- and 17-year-olds according to adult criminal law and to place them in adult prisons. The Netherlands has made a reservation to article 37(c) CRC to make this possible, however, the question is merited whether the application of adult criminal law to youth is justified based on the goals of a children's rights compliant youth justice system (article 40(1) CRC). The same question can be posed concerning the possibility to convert the youth treatment measure into an adult treatment measure, which in theory can result in a life sentence (see also articles 37(a-b) and 40(1) CRC).

Regarding the duration of the sentence the CRC requires deprivation of liberty to be of the shortest appropriate period of time. However, the CRC, nor General Comment No, 24 nor the ECHR and its case law give concrete guidance on this. Case law of the European Court of Human Rights indicates that the national legislator and/or the judiciary should decide on what a proportional and suitable (maximum) sentence or measure is for youth convicted of a serious violent or sexual offence. Therefore, it can be concluded that the international and European children's and human rights framework as such

does not require the amendment of the maximum sentences in the Netherlands, but leaves this to the discretion of the national legislator, provided that the children's and human rights principles, as outlined in chapter 2, are taken into account.

2) *A European comparative perspective*

To start with, it is of importance to acknowledge that no legal requirement exists for the Netherlands to conform its laws and practices to those of other countries. Moreover, literature on comparative legal research shows that simply copying and implementing a legal rule or 'best practice' from another country (also known as 'legal transplant') is a controversial practice, since the meaning and effects of a rule or practice largely depend on the specific legal, historical, cultural and societal context.⁷ Legal comparative research therefore is first and foremost useful in feeding internal criticism and reflection on one's own legal system, without losing sight of the legal, historical, cultural, societal and practical context.⁸

The results of this study show that the common law countries (England & Wales, Ireland) show a more punitive approach compared to the civil law countries (Netherlands, Belgium, Germany and Sweden). The low minimum age of criminal responsibility (10 years) and the possibility – and in the case of murder mandatory requirement – to impose to (very young) children very long, and potentially even life long, sentences are on strained terms with the principles following from the international and European children's and human rights framework and the current knowledge on the neurobiological development of children and young people (see also General Comment No. 24).

It is difficult to make a valid comparison based on the types and duration of sentences in the Netherlands to that in other countries. This is among other things a result of the difference that is made between sanctions and measures in the Netherlands and the rules applying to either extension or early release. Moreover, in countries such as Germany and Sweden the sentences seem longer in duration, however, the minimum age of criminal responsibility is higher and in Germany youth cannot be sentenced according to adult criminal law. In the Netherlands, a relatively short term of detention can be imposed, however, potentially youth can be lifelong deprived of their liberty for offences committed when still under age (i.e. conversion of the youth treatment measure into an adult treatment measure and sentencing of 16- and 17-year-olds according to adult criminal law and sentencing of youth according to adult criminal law). Based on the results of this study it can be concluded that the sentencing of youth differs substantially among jurisdictions, however, no firm conclusion can be drawn regarding the question whether sentences in the Netherlands

7 Legrand 1997; Brants 2010.

8 Nelken 2010.

are substantially longer or shorter in duration or more or less punitive compared to the other civil law countries.

In short, the results of this legal comparative research do not give rise to amending the Dutch criminal law approach to youth who have committed a serious violent or sexual offence. However, if these results do inspire the legislator or policy makers to consider possible changes in the Dutch approach, it is important that they take into account the particular legal, historical, cultural, societal and practical context of the Dutch youth justice system.⁹

3) *An effectivity perspective*

The findings of the literature review and the study on sentences and recidivism in the Netherlands give no reason to amend the Dutch criminal law approach to youth who have committed a serious violent and/or sexual offence. Yet, neither of the studies provide any reason not to amend the current approach. Although earlier research suggests that youth detention, and probably longer detention length as well, does not prevent recidivism,¹⁰ this could not be confirmed in the current study. That said, it should be emphasized that research on the specific subgroup of youth who have committed a serious violent and/or sexual offence is scarce, and when available often relies on small sample sizes. Furthermore, interpretation of available research is complicated as it is often unclear to what extent imposed sentences are actually carried out in practice. To draw firm conclusions on the effectiveness of sentences imposed on the specific subgroup of this study, randomized effectiveness research – or at least quasi experimental research – should be conducted, in which long term outcomes of sentences are examined across comparable groups. In case such research is complicated by the small number of offenders, it is imperative to be able to link various registration systems and to combine data on imposed sentences, how sentences are implemented and recidivism.

Important to note is that none of the selected countries based their criminal law approach to youth who have committed a serious violent or sexual offence on evidence-based interventions. This has been confirmed by the international experts consulted in this study. The aim of the Dutch government to implement effective sentences and measures is commendable and important, according to the international experts and the authors of this study. Literature demonstrates that the most effective way to intervene is to implement evidence-based interventions and by adhering to the *Risk-Needs-Responsivity* principles.¹¹ To optimise the developmental outcomes for youth it is therefore advisable to focus on sentences attuned to the criminogenic risk factors, needs and responsivity of the individual, rather than restricting the focus to intra- versus extra-mural sentences and length of detention. Apart from the availability of suitable

9 See Nelken 2010.

10 See Nagin, Cullen and Jonson 2009.

11 Andrews and Bonta 2010.

interventions, it is imperative to monitor the implementation of imposed sentences and to timely adjust the implementation when and where needed.

Conclusions

This report identifies which sentences are applied in the Netherlands and other European countries – Belgium (Flanders), Germany, England & Wales, Ireland and Sweden – to youth between the ages of 12 and 23 who have committed a serious violent or sexual offence, what the effectiveness is of these sentences and how they relate to the international and European children's and human rights standards. Furthermore, a reflection is provided on the question to what extent the results give rise to amending the Dutch approach towards youth between the ages of 12 and 23 who have committed a serious violent or sexual offence. It has become clear that none of the three perspectives provided in this study – (1) an international and European children's and human rights perspective, (2) a European comparative legal perspective, and (3) an effectivity perspective – require amending the Dutch approach, however, at the same time they leave some room for the legislature to make certain changes. The results of this study do not provide a direct answer to the question whether the maximum detention sentence in the Netherlands should be increased. Ultimately, it is for the legislature to decide on this, taking into account the national and international legal frameworks and the overall aim of *evidence-based* and effective sentencing. The results of this study, as well as the main issues of concern and suggestions for further research (see below) aim at supporting the legislature and policy makers in making well informed, well-argued and scientifically substantiated decisions concerning this issue.

Issues of concern for legislature and policymakers

To conclude, in this report six issues of concern are brought forward, based on the research outcomes, which should be taken into account by the legislature and policy makers in taking decisions regarding the maximum detention sentence for youth who have committed a serious violent or sexual offence.

- 1) First it is important to emphasise, that serious violent and sexual offences committed by youth are rare and not representative of the majority of youth justice cases dealt with by the courts. In the debate regarding a potential increase in duration of the maximum detention sentence for youth, it should be noted that this increase may also affect less serious cases. It should be taken into consideration to limit the discussion on this increase to qualified serious violent and sexual offences.
- 2) In the debate surrounding a potential increase it should be taken into account which implications this could have for the relation between youth detention and the closed treatment measure for youth. Further research among involved professionals, such as judges, prosecutors and experts,

should be conducted to gain insight in this and the practical implementation of both sentences. Moreover, psychologists working in youth detention facilities should be involved in further research, to gain insight into the possible consequences of a longer detention sentence on the implementation and effectiveness of treatment in confinement. Further research could also include case study research linked to the judgments that were coded in the context of the current research. At case level, it could then be retrospectively analysed how the imposed sanction was implemented and what the outcome of the case was in terms of rehabilitation and recidivism.

- 3) This study has shown that there is no evidence that longer duration in detention leads to less recidivism. To make deprivation of liberty more effective, evidence-based treatments and an obligation for facilities to implement these treatments are required, even more so when the maximum duration in detention is increased.
- 4) Further research is needed on whether a system of early release for youth should be implemented, and how this would operate, when discussing a potential increase of the maximum detention sentence.
- 5) An increase in the maximum duration of detention might also affect the sentencing of young adults until 23 years of age according to youth criminal law and the sentencing of 16- and 17-year olds according to the adult criminal law. This should be further researched among judges and prosecutors.
- 6) The legislature and policy makers should, together with academics and experts from practice, reflect on the fundamental question on which goals are pursued in sentencing youth for serious violent and sexual offences, when these goals are reached, on the basis of which criteria this is determined and how this is monitored? Only then it can be determined whether an increase in the maximum detention sentence contributes to reaching these goals. Whatever the final policy decision will be, this study has shown that urgent need exists to systematically register and monitor the implementation and effects of sentencing youth for serious violent and sexual offences. This is an underdeveloped area in both the Netherlands as well as in other countries. Improved registration and monitoring are an essential requirement in order to develop an evidence-based youth justice system.