Summary

Reoffending during forensic care trajectories in the Netherlands, 2013-2017

Introduction

The term forensic care (FC) refers to court mandated mental health care, drug rehabilitation and care for people with intellectual disabilities, under criminal law. The primary purpose of FC is the prevention of reoffending by offenders with mental health disorders.

Since the 80s, the Dutch Research and Documentation Centre (WODC) periodically reports reoffending figures for offenders who were discharged from treatment under a hospital order (*terbeschikkingstelling;* tbs). Meanwhile, the Dutch forensic care system has greatly expanded beyond tbs-treatments. New inpatient and out-patient[19] treatment facilities have been developed for offenders with other kinds of sentences, and FC has been introduced in the prison system, partly in special prison psychiatric hospitals (*penitentiair psychiatrische centra*, PPC). The most recent development is the emergence of facilities for forensic supported housing. Due to these developments, no more than 4% of the total outflow of the FC in the years 2013 and 2014 came from the tbs. In 2008, the Dutch Ministry of Justice became responsible for the FC-system. Therefore, the Ministry and the executive organiza-tion, *Dienst Justitiële Inrichtingen*, asked for the extension of the recidivism research to the entire FC. This resulted in the WODC research program Recidivism forensic care, 2016-2021.

The first studies in the program addressed reoffending following FC. However, reoffending during FC is equally important, for several reasons. First, due to the development of the FC-sector described above, most FC is taking place in the community or in settings which allow for regular contact with the community. Second, when placing offenders in FC, a balance must be achieved between the safety of the community at the one hand and the needs of the offender with respect to care and rehabilitation at the other hand. Figures about reoffending in various FC-settings could improve placement decisions. Third, serious crimes committed during FC have repeatedly caused public commotion. Therefore, it is desirable to have reliable figures about the extent of crime during FC.

The present study is directed at the following questions:
1. How do FC-trajectories[20] look like in terms of the typen of FC and patterns of downscaling and upscaling of restrictiveness?
2. Reoffending during FC-trajectories
   a. What is the total amount and the type of crimes during FC-trajectories?

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[19] Inpatient: accomodation and treatment in facillities with various security levels; outpatient: living in private environment from where a treatment-facility in the community is visited.

[20] Forensic care trajectories are defined as uninterrupted periods with one several consecutive judicial orders, during which at some time FC is delivered.

   b Which percentage of recipients of FC commit crimes during their FC-trajectories?

   c Which characteristics of the individuals (demographic and criminal) and the FC are associated with reoffending during FC-trajectories?

3 Reoffending during the various typen of FC

   a Which percentage of recipients of FC commits a crime during a particular type of FC?

   b Which characteristics of the individuals (demographic and criminal) and the FC are associated with reoffending during the various typen of FC?

Method

The study population consists of all individuals, who received FC in the period 2013-2017. Different subsets of this group are used for answering the research questions:

- The description of the FC-trajectories (question 1) is based on all FC-trajectories, which were completed in the period 2013-2017 and started in 2011 or later.
- The risk of reoffending and the characteristics of the individuals and the FC, which are associated with this risk (questions 2b, 2c, 3a, and 3b), are determined on the basis of all FC-trajectories, which began in the period 2013-2017.
- The total amount of crime during FC-trajectories is determined on the basis of all trajectories, which overlap with the period 2013-2017.

FC-trajectories were reconstructed on the basis of data extracted from registration systems of the National Agency of Correctional Institutions (DJI) and the Central Judicial Collection Agency (CJIB), concerning the process of indication and place-ment in FC, electronic billing by care-providers, in- and outflow of the prison system, and the periods of conditional sentences. In addition, criminal records were extracted from the Research and Policy Database for Judicial Documentation (OBJD), a pseudonymised version of the Judicial Documentation System (JDS). This information was combined into datasets, which contain the following information for each FC-trajectory: dates of beginning and end, types of FC with the dates of muta-tions, dates of incarceration and release from prison, demographic, judicial and psychopathological person characteristics, and dates and characteristics of criminal offences committed during FC-trajectories.

A FC-trajectory is defined as continuing period of one or more sentences, during which at some point FC was delivered. Within FC-trajectories, five levels of restric-tiveness (LR) are distinguished on the basis of security levels, restrictions to free movement, level of supervision, and level of support, as shown in table S1.

Table S1   Types of FC and level of restrictiveness (LR)

Type of FC	LR	
No FC	LR1	Judicial order, possibly supervision by the probation service
Outpatient FC	LR2	Therapeutic appointments, possibly supervision by the probation service
Forensic supported housing	LR3	A: Supervision and support
		B: Intensive supervision and support, controlled entrance
Inpatient FC	LR4	A: Closed setting (low security)
		B: Closed setting (medium of high security)
Prison (incl. PPC)	LR5	Closed (medium of high security)

Employing the standard method of the WODC Recidivism Monitor, reoffending is operationalized as a conviction for a crime committed during a FC-trajectory. Separate statistics are reported for reoffending in general and serious reoffending (crimes with a sanction threat of eight years or more). For establishing the total amount of crime during FC-trajectories, crimes are subdivided into the categories violent crimes, sexual crimes, property crimes without violence, property crimes with violence, drug crimes, a combined category including destruction of property, mild aggression and crimes against public order, and miscellaneous crimes.

The risk of reoffending during FC-trajectories is determined by multistate survival analysis, the risk of reoffending during periods with the same LR is computed with competing risk survival analysis. In both cases, the risk is determined for reoffending in general and for serious reoffending.

Results

Number and kinds of FC-trajectories

In total 29,666 FC-trajectories ended in the period 2013-2017, excluding trajectories which started earlier than 2011. FC-trajectories differ largely with respect to duration, types of FC involved, and periods with imprisonment.
- Of the 29,666 FC-trajectories, 28% started in prison and 72% in FC-facilities outside the prison system.
- In 15% of the 72% FC-trajectories, which started outside the prison system, one or more periods is prison followed later in the trajectory.
- Of the 57% FC-trajectories without periods in prison, the majority (49%) only consists of FC in an outpatient facility, a smaller part (8%) contains FC in an inpatient setting or in a facility for supported housing, possibly in addition to outpatient FC.
- Of the 28% FC-trajectories which started in prison, 7% contained no FC outside the prison system. In the remaining 21%, incarceration was followed by one or more types of FC, in some cases interrupted by further periods in prison.
- In most trajectories in which downscaling of the LR took place, this was entirely or partly reversed later in the trajectory, or was followed by a period in prison.

Total amount and density of reoffending during FC-trajectories

In the period 2013-2017, there were 30,344 convictions or settlements by the public prosecution service for crimes committed during FC-trajectories.
- Of these 30,344 convictions, 6% referred to a crime from the category 'serious' (legal sanctions threat of eight years or more).
- Property crime without violence was most prevalent (46%), followed by violent crime (17%, of which 0.5% homicide). Property crime with violence (3%) and sexual crime (1%, of which 0.2% sexual assault or rape) were relatively rare.
- Most of the crimes during FC-trajectories are either committed during LR1, that is, at the beginning of the sentence period, before the FC has started, or at the end of the sentence period, after discharge from FC (47%). Outpatient FC (LR2) accounts for 39% of the crimes. Crimes during FC in supported housing (LR3, 6%), during FC in inpatient facilities (LR4, 3%), and during periods in prison (LR5, 5%) are much less prevalent.
- The highest density of crime (number of convictions per person-year in FC) is found in periods without FC (LR1; general reoffending 0.5, serious reoffending

0.03), followed by period in outpatient FC (LR2; general reoffending 0.4, serious reoffending 0.02), and period in supported housing (LR3; general reoffending 0.3 an serious reoffending 0.02). The density of crime is substantially lower during inpatient FC (LR4) and imprisonment (LR5; both general reoffending 0.1 an serious reoffending 0.01).

Risk of reoffending during FC-trajectories

The risks of general reoffending and serious reoffending during FC-trajectories are estimated on the basis of all FC-trajectories, which started in the period 2013-2017.
- Within one year in a FC-trajectory, 24% of the individuals reoffended (2% with a serious crime). After two years, there were 33% reoffenders (3% with serious crimes), and after five years a further increase occurred to 37% and 5%, respectively.
- The risks of both general and serious reoffending are associated with demographic and judicial characteristics of the persons and with the type of FC. Controlled for the statistical influence of all other variables in the models, the risk of a crime at any point in a FC-trajectory is:
  – higher for men than for women;
  – higher with lower age;
  – higher if the index-crime was a property crime of a crime from the category destruction, mild aggression and crime against public order; the risk was lower whif en the index-crime was a sexual crime. In addition, the risk of a serious crime was higher, if the index-crime was a drugs crime;
  – higher when the number of previous convictions was higher;
  – lower when the level of restricitiveness (LR) was higher. Compared with periods in FC-trajectories without FC (LR1), the risk of general and serious reoffending, respectively, is:
    o 13% and 34% lower, respectively, during outpatient FC (LR2);
    o 42% and 65% lower, respectively, during forensic supported housing (LR3);
    o 79% and 87% lower, respectively, during inpatient FC (LR4);
    o 84% and 77% lower, respectively, during periods in prison (LR5).

Risk of reoffending during types of FC

The risk of reoffending and of serious reoffending is also determined for the various types of FC, regardless in which phase of the FC-trajectory the FC took place.
- In every type of FC, if reoffending occurred, the first crime is almost always committed within 12 months. However, the likelihood of a crime differs largely across LRs. Within 12 month, a crime is committed:
  – in 13% of the periods without FC (LR1), of which 1.1% contained serious crimes;
  – in 15% of the periods with outpatient FC (LR2), of which 1.0% contained serious crimes;
  – in 11% of the periods in forensic supported housing (LR3), of which 0.8% contained serious crimes;
  – in 4% of the periods in inpatient FC (LR4), of which 0.4% contained serious crimes;
  – in 3% of the periods in prison (LR5), of which 0.4% contained serious crimes.
- In LR1 and LR2, the risk of reoffending is especially high during the first three months. In LN2, this also applies for the risk of a serious crime.

Conclusion and perspective

Although crimes committed during FC have been in the spotlight more than once, the present study provides the first overview of the amount and types of crime during FC-trajectories, differences between types of FC, and risk factors. The figures show that reoffending during FC-trajectories are no exception. The percentage of individuals who reoffend during the first two years of their FZ-trajectories, i.e., 33% for general crimes and 3% for serious crimes, is in the range of the percentages of reoffenders in the first two years following FC-trajectories, i.e., 18-53% for general reoffending and 2-11% for serious reoffending, depending on the type of FC-trajectory. Over 70% of the crimes that were committed during FC-trajectories are property crimes without violence, destruction, mild aggression, crimes against public order, or other comparatively minor crimes. Six percent of the crimes fall into the category of serious crimes, that is, crimes with a legal sanction threat of eight years or more. Homicide and sexual assault or rape account for 0.5% and 0.4% of the crime during FC-trajectories, respectively.

A number of findings are of special relevance for national policy in the area of FC and for the FC-sector:
- Many FC-trajectories contain periods during which no FC is delivered (LR1). These periods can occur either at the beginning of FC-trajectories, between conviction and placement in FC, or at the end of FC-trajectories, when the probationary period for the FC has expired but other conditions, such as contact bans or restraining orders, still apply. These periods without FC have the highest density of crime, especially in the first three months. This suggests that it is important to keep the procedure for placement in FC as short as possible, especially for individuals with a high risk of reoffending.
- When FC takes place, both the density of crime and the percentage of reoffenders are highest during outpatient FC. Because outpatient FC also accounts for the largest part of all FC, almost three of four crimes and two of three serious crimes during FC-trajectories are committed during outpatient FC. The risk of reoffending during outpatient FC is the highest in the first three months. The risk of serious crimes is especially high for individuals, who committed serious crimes, property crimes with violence or drug crimes before. These findings suggests that policy directed at prevention of reoffending during FC-trajectories, should focus on the indication for outpatient FC and on risk management during the first months of outpatient FZ, especially for individuals with a higher risk.
- Downscaling of FC is important in the process of rehabilitation. In almost half of the trajectories with inpatient FC, downscaling from inpatient FC to outpatient FC or supported housing took place. However, in many cases, it was followed by upscaling of FC or imprisonment. The present study provides no information why downscaling did not happen or was not successful. Given the pivotal importance of downscaling of FZ for a controlled process of rehabilitation, this issue deserves a further investigation.

Research into reoffending based on reconvictions always yields an underestimation of reoffending, because only crimes are counted, which are reported, detected, prosecuted and proven. In this study, the underestimation of crime probably is likely to be most pronounced with respect to the periods in prison, because signs of crime are often not reported in prisons and neither the police nor the public prosecutor gives priority to crimes, of which the perpetrator is in prison already.

The present study constitutes the closing piece of the WODC program Recidivism forensic care, 2016-2021. The program yielded national figures concerning reoffending following and during FC-trajectories, together with information about risk factors for reoffending. However, some important questions have yet to be answered. We recommend that future research should address the following questions.

- It is likely that reoffending during FC-trajectories at least partly depends on situational factors, which could not be taken into account in the present study. A particularly important situational factor for individuals who received FC is regular mental health care. The Dutch Healthcare Authority (NZA) reported that more than half of the ex-recipients of FC received regular mental health care in the years following an FC-trajectory, and that an even higher number has needs for mental health care. In order to better understand reoffending during FC-trajectories and to develop effective prevention policy, it would be important to combine information about reoffending after FC-trajectories and use of mental health care.
- In most research into reoffending, the focus is on the first crime after discharge from FC. However, research into criminal careers has shown that desistance from crime should be seen as a gradual process. This implies that the most important question is not, whether a crime is committed following FC but whether FC-trajectories constitute turning points in criminal careers. Future research into reoffending should address this question.