



Wetenschappelijk Onderzoek- en
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Cahier 2021-26
Herstel in detentie

Beleid en interventies

Summary

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Cahier

De reeks Cahier omvat de rapporten van onderzoek dat door en in opdracht van het Wetenschappelijk Onderzoek- en Documentatiecentrum is verricht. Opname in de reeks betekent niet dat de inhoud van de rapporten het standpunt van de Minister van Justitie en Veiligheid weergeeft.

Summary

Restorative justice in detention in the Netherlands

An overview of policies and interventions

This study aims to give an overview of policies on and use of restorative justice (RJ) in detention for both adult and juvenile detainees. A previous account revealed a large number of available interventions (Slump, 2018). However, it is unknown to what extent these are used in practice and how they are evaluated by the professionals involved. This study was conducted to fill this knowledge gap.

The use of restorative interventions is in line with the Dutch Custodial Institutions Agency's (DJI) goal of victim-oriented and restorative detention. RJ in a detention context might consist of mediated contact between incarcerated suspects or offenders and their victim(s), but also includes offender-focused interventions such as courses aimed at raising awareness and taking responsibility (also known as self-restoration), and interventions aimed at restoring the relationship with the offender's network. All these interventions are included in this study.

The following three research questions are central to this study:

- 1 How is restorative justice organised in detention?
- 2 Which restorative interventions are available for adults and juveniles, and what do they entail?
- 3 How do the professionals involved view the use of restorative interventions?

Research methods

This study is limited to Dutch correctional institutions for adults (prisons) and juvenile correctional institutions (juvenile prisons). Forensic care centres and detention under hospital orders (tbs), detention centres for foreign nationals, and the Netherlands Caribbean Correctional Institution were not included.

In order to answer the research questions, interviews were conducted with 52 respondents between December 2020 and June 2021. Fourteen of these respondents work at a total of eight external (non-prison) organisations that offer restorative interventions in detention (six) or advise on this (two). Interviews were held with all organizations that offer restorative interventions nationally or in a larger region.

Of the respondents, 33 work at a prison. Interviews were held with staff of 19 prisons, 3 prisons could not be included in the study. In addition, four employees of juvenile prisons were interviewed; all Dutch juvenile prisons are therefore included in this study. Respondents were selected based on their knowledge of the availability of restorative interventions in their institution and of the policies regarding restorative justice. Of the respondents, 56% are involved in interventions as trainer, mediator, or contact person, in some cases alongside other tasks. The other respondents have a

coordinating and/or managerial role. Finally, one policy officer from DJI was interviewed.

In addition to the interviews, several respondents sent in additional information and documentation including policy plans, course material, and job descriptions.

External organisations were requested to provide information on the number of participants and/or courses provided in the period 2017-2020. Not all organisations offering restorative interventions keep records, nor do they always register whether participants are detained. For data on interventions that are offered by prisons themselves we relied on the interviews with staff members.

Research findings

Policies and organisation

At the time of this study, restorative detention was not yet part of the policies of prisons. Almost all institutions had drawn up a 'RJ policy plan' in which they laid out how they intended to promote victim awareness and RJ in their institution. However, these plans have had little to no follow-up. This has to do with practical reasons such as site closures or mergers, high staff turnover or the complexity of the prison population. Three more general bottlenecks are also identified:

- Support for RJ among staff members appears to be insufficient. Following changes in upper management, priorities may shift or plans may be postponed. On the work floor, there is little knowledge of what RJ entails and how staff can integrate it into their daily work. In addition, there is resistance among some staff members due to feelings of insecurity and the perception that RJ is 'soft'.
- Prisons struggle with the implementation of restorative detention. Many respondents said they needed more financial resources to appoint an employee specifically tasked with RJ. Some institutions have made funds available internally for this purpose.
- Restorative interventions are usually not implemented across all prison wards, but are restricted to 'regular' prison wards and, to a lesser extent, wards for pre-trial custody. In wards where inmates require a lot of (psychological) care or specific treatment programmes, wards with higher security levels, or wards for (very) short stay, relatively little attention is paid to possibilities for implementing RJ.

RJ advisors are currently active in three prisons. RJ advisors help shape and implement policies on RJ, for example by giving restorative courses. A 'case manager RJ' is employed in one prison, and three prisons have special functionaries or ambassadors tasked with promoting RJ. In the other institutions there are no staff members specifically tasked with RJ, usually because of financial reasons. In these institutions, spiritual counsellors or case managers refer inmates to external services and sometimes also conduct restorative conversations themselves. In some prisons, reintegration trainers are also involved in giving restorative courses. Penitentiary workers are only rarely involved.

In offering restorative interventions, prisons work together with a number of external non-profit organisations that offer a wide variety of interventions. There are also a number of collaborations with knowledge and network organisations and colleges. The main contact points for external organisations within the prison are RJ advisors and spiritual counsellors. Most external organisations feel like they are fairly well known,

although it also happens that staff members have not heard of an organization or activity before, or do not know that an activity is organized in the prison. The availability of a RJ contact person facilitates contact.

At the time of the research, prisons were busy preparing for the introduction of the Punishment and Protection Act (*Wet straffen en beschermen*) on 1 July 2021. It is expected that with the introduction of this law, RJ will play a larger role in detention. However, the additional workload associated with the new law may also lead to less attention for RJ.

In juvenile prisons, RJ is regarded as an (underlying) treatment goal. In practice, the focus is mainly on the network of the incarcerated youth and the analysis of their offence. Attention for victims has increased, but is not (yet) part of regular ways of working. Victims are mainly discussed in an indirect manner during the preparations for a leave application. There is broad support for RJ among staff, but knowledge about specific interventions is not always present. There are no functionaries specifically tasked with RJ.

Restorative interventions for adult inmates

Restorative interventions in prisons can be divided into courses, mediated contact, restorative wards, and other interventions. Interventions do not affect ongoing criminal proceedings (except for mediation in criminal cases). At this time, they also have little to no influence on the duration of detention and the detention conditions. Participation is not always recorded in the detention- and reintegration plan of the inmate, and when it is this reporting is mostly process-related. Respondents differed in their opinions on whether more extensive reporting is desirable and whether participation should have consequences – for example when considering a leave application.

Courses

There are two nationally available courses that briefly discuss RJ (*Aan de Bak!* and *Sociaal netwerk en relaties*). Furthermore, almost all prisons offer one or more courses on self-restoration or restoration with one's own network. Participants are mostly recruited by (internal or external) course instructors, as well as by other prison staff. Word of mouth among inmates plays an important role, and for most courses information material is available. Participation is voluntary. Selection criteria are mostly practical in nature. Participants have to be detained long enough to complete the course. Inmates with psychological or aggression issues or those who have committed sexual offences may be excluded or referred to an individual course. In one institution participants must qualify for a more liberal prison regime, in the other prisons detention regime plays no formal role. Some respondents indicated that they consider inmates' motives for participation, but in general it is preferred to let inmates participate even if they do not seem very motivated.

Nine prisons offer the course *Puinruimen* ('Cleaning up the mess'), and twelve prisons offer the *SOS group course* (organised by Gevangenzorg Nederland) – three prisons offer both. In one prison the group course *Lef Hebben* ('Have Courage') was developed. These three courses aim to raise awareness among participants of the consequences of their actions and to encourage them to take responsibility for harms caused. Some staff members also believe that these courses should result in mediated contact with victims. In the period 2017-2020, Gevangenzorg Nederland gave 48 SOS group courses with a total of 389 participants. *Puinruimen* is given three to five times a year to groups of about ten inmates. The course *Lef Hebben* is given twice a

year to groups of about twelve inmates. In 2020, courses either did not take place or took place in an adjusted form as a result of the coronavirus measures. Respondents stated that participants form a diverse group, with prisoners convicted of more serious offences being over- rather than underrepresented. However, prisoners who are active in organised crime or whose victims are criminals themselves are less well reached. The trainer of Lef Hebben indicates that about half of the participants drop out during the course. According to respondents involved with Puinruimen or SOS, most participants finish the course. Participation in courses can be a first step towards mediated contact with victims. Respondents estimate that about 10-20% of course participants apply for mediation.

Courses aimed at RJ with one's own network aim to stimulate awareness of the consequences of the crime for the family of the inmate. The course *Mijn Kind en Ik* ('My Child and I', organised by Exodus) for incarcerated fathers is offered in seventeen prisons. In the period 2017-2020, this course was given a total of seventy times to 426 participants. The course is well received, although one prison staff member indicated that the subject of parenthood was experienced as very personal. As a result, not all inmates are open to participation. Institutions that house incarcerated mothers offer various parenting courses for this group.

Mediated contact

Opportunities for mediation exist in all prisons. However, there is a lot of variation in the number of referrals between prisons. When a designated contact person exist, the number of referrals is higher (although in all cases numbers are limited). Some detention staff only refer inmates, others also conduct interviews to check their motivation and expectations. Some staff members accompany detainees during meetings and offer moral support.

In the period 2017-2020, *Perspectief Herstelbemiddeling* – the designated organisation for mediation after sentencing – received a total of 683 applications. The majority of inmates were referred by prisons; about 19% were inmates who registered themselves. Applications concern a variety of offences, a considerable share concerns (very) serious offences. Theft with (threat of) violence (22%) and homicide (16%) were most common, 9% of the applications concerned a sex offence. A quarter of the closed cases resulted in mediated contact in the form of a conversation, an exchange of letters, or indirect mediation. When mediated contact did not take place, this was mostly because victims did not respond to the invitation or did not want to participate.

Mediation in criminal cases – for suspects that are in pre-trial custody – occurs incidentally in at least nine prisons. Restorative conferences organised by the *Eigen Kracht Centrale* occur in only a few institutions. The interviewed employee of the *Eigen Kracht Centrale* estimates that in 5% of the conferences that they organise, the offender or suspect is incarcerated.

Restorative wards and other interventions

Four prisons have a ward dedicated to RJ; these wards each house a few dozen inmates and offer several restorative interventions. Motivation to work on RJ is an important condition for placement.

At least three prisons offer the *Forsa!* Programme (developed by Bureau MHR) which is geared towards young adults (17-27 years) with a non-Western background. *Forsa!* reaches between 80 and 120 young adults per year. Finally, in many prisons additional activities are organised aimed at facilitating contact between imprisoned parents and their children.

Restorative interventions for juvenile detainees

In juvenile detention, the course *DAPPER* ('Brave'), mediated contact, the individual intervention *Leren van delict* ('Learning from the offence') and family-oriented therapy are offered. The last two interventions are part of the regular programme. In contrast to adult detention, restorative interventions in juvenile prisons are more or less compulsory: the starting point is that every minor who meets the selection criteria should participate. Respondents do not find this problematic: they argue that a certain degree of compulsion fits the detention context. However, staff sometimes wait to start an intervention if they feel that the young person is not yet ready.

The *DAPPER* group course is offered in the wards for pre-trial custody and aims to enable young people to identify the consequences of crime for victims, recognise feelings of guilt, shame, and remorse, and explore their own willingness to engage in RJ. The course is given by trained staff from the institution. In the 2017-2020 period, *DAPPER* was regularly offered in one juvenile prison, a few times in two prisons, and not at all in two other prisons. For young people who do not function well in a group context, have a low IQ, have psychological problems or do not speak Dutch, a contra-indication for participation may be issued. *DAPPER* can lead to mediated contact at a later point in time, although it is unclear how often this actually happens.

Referral to mediation happens as a result of participation in *DAPPER* or after discussions with a treatment coordinator. Before referral, treatment coordinators conduct preliminary conversations to check if the young person has enough self-awareness and can meet the expectations of the victim. When in doubt, the decision is left to *Perspectief Herstelbemiddeling*. In the period 2017-2020, a total of 143 applications for mediation were filed by juvenile prisons. More than half of the applications (53%) concerned theft with (threat of) violence. In 36% of closed cases, mediated contact took place.

Leren van delict and family-oriented therapy are interventions that are part of the treatment programme after conviction. The aim of family-oriented therapy is to repair relationships so that people can move on together. *Leren van delict* is an individual intervention that focuses on learning behavioural and problem-solving skills and developing a relapse prevention plan. The intervention is an important part of the treatment programme; if detainees do not cooperate they cannot go on leave. A low IQ (<70) is a contraindication, except in the case of reasonable to good social adaptability.

Added value and bottlenecks according to professionals

Respondents indicate that participants generally experience restorative interventions as valuable; only a few negative experiences were mentioned. Inmates are encouraged to reflect on the offence and learn to deal with feelings of shame and guilt. According to the respondents, a humane and equal setting is created during the interventions, and completion of courses increases inmates' self-confidence. Participation can also have practical advantages such as breaking daily routines. For juvenile detainees, respondents specifically mention that participants learn to deal with conflicts productively and work on developing their conscience. For the detention institution and society as a whole various forms of added value were identified. Interventions have the potential to reduce recidivism, participants show better behaviour during detention, and restorative interventions are of value to victims of crime and children of inmates.

The interviews also revealed a number of bottlenecks in relation to adult inmates:

- detainees are not always able to participate due to scheduling conflicts;
- there is a tension between the assumption of voluntary participation and the compulsory framework in which interventions take place;
- staff members are not always aware of the full range of interventions offered by external organisations and receive limited feedback from these organisations;
- a lack of policy guidance and financial means on the national level.

For juvenile detainees, the following bottlenecks were mentioned:

- in the pre-trial wards where the DAPPER course is offered, it is not always clear yet which young people will benefit from participation;
- not all young people are equally capable of taking responsibility and expressing remorse, for example during mediated contact;
- group focused interventions may be less suited for youths.

In conclusion

This report has given an overview of the Dutch state of affairs in the field of RJ in detention. In recent years, there has been growing attention for RJ in detention facilities. RJ policy plans were made and some institutions have appointed a RJ advisor. There is a wide range of restorative interventions that can be organised internally or obtained from external parties. At the same time, RJ is not yet a structural part of the working method in (juvenile) prisons. Restorative interventions are not yet available everywhere and do not reach all inmates who might benefit from them.

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