

A photograph showing three individuals from behind, sitting on a wooden park bench. They are wearing hooded jackets in dark grey, blue, and bright blue. The person on the left is wearing red shorts, the middle person is wearing blue jeans, and the person on the right is wearing khaki shorts. The bench has graffiti on it that reads 'FOODS!'. The background consists of green trees and a grey sky.

Summary - Referral to behavioural interventions in the juvenile justice chain

National instruments and the personalized approach

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Summary

Introduction

The main aim of the juvenile justice system is to reduce recidivism by promoting behavioural change. Achieving that behavioural change and preventing recidivism requires an intervention appropriate to the individual according to the principles of the Risk, Need, Responsivity model (RNR). In other words, the effectiveness of a criminal justice intervention is greatest if it matches the young person's risk of recidivism (the risk principle) and addresses the dynamic risk factors underlying the risk of recidivism (need principle). Moreover, the intervention should fit the young person's motivation, learning style and intellectual capabilities (responsiveness principle). Therefore, it is important that young people in the juvenile justice chain are directed to suitable interventions.

Based on a criminal investigation, the Child Protection Board (in Dutch: Raad voor de Kinderbescherming or RvdK) advises the Public Prosecutor and the judge on which punishment and which behavioural intervention within that punishment is suitable to prevent recidivism. To identify the characteristics of young people, the National set of Instruments Juvenile Justice System (in Dutch: Landelijk Instrumentarium Jeugdstrafrechtketen or LIJ) is used in the juvenile justice chain. Part of the LIJ is the Ritax risk assessment instrument. The RvdK uses this tool to assess the risk of recidivism, risk and protective factors, motivation, learning style and intellectual potential of young people. The outcome of the Ritax is a score for general recidivism risk (in Dutch: ARR) and a Dynamic Risk Profile (DRP). The LIJ provides automated suggestions for suitable behavioural interventions based on these scores. The subcommittee on judicial interventions (in Dutch: Deelcommissie Justitiële Interventies) of the Admissions Committee for Interventions (in Dutch: Erkenningscommissie Interventies) has recognised these behavioural interventions as theoretically well-founded. Thus, the LIJ's suggestions should always match the recidivism risk and the dynamic risk profile. The next step is for the RvdK to advise the LIJ's suggestions and for the Public Prosecutor or the judge to adopt them and charge and impose them. It was not clear until now to what extent this happened in practice. Based on signals from the field, policymakers and chain partners had the impression that behavioural interventions could be recommended and imposed on more young people than was the case in practice.

To shed light on how the referral to behavioural interventions using the LIJ takes place in practice, the Research and Documentation Centre (in Dutch: Wetenschappelijk Onderzoeks- en Documentatie Centrum or WODC) of the Ministry of Justice and Security (in Dutch: Ministerie van Justitie en Veiligheid or JenV) asked DSP-groep to investigate the following:

1. To what extent do the behavioural interventions suggested by the LIJ match the risk profile of juvenile offenders?
2. To what extent are these suggestions adopted by the RvdK in its advice?

3. To what extent are the recommendations of the RvdK subsequently followed by the Public Prosecution Office (in Dutch: Openbaar Ministerie or OM) and the judge when settling criminal cases?

In this Summary, we report on the study.

Research Design

We used several methods to answer the research questions:

- ③ Desk research on written documentation (LIJ manuals, descriptions of recognised behavioural interventions).
- ③ Analysis of an extraction from the RvdK's Child Protection Business Processes System of 6646 cases with a Ritax B in 2018 and 2019 (scores on the dynamic risk profile, LIJ suggestions, type of investigation and advice).
- ③ Four group interviews with nine counsellors and three behavioural experts in four regions.
- ③ Individual interviews with six prosecutors and six judges in three regions.
- ③ File search of 373 RvdK advisory reports and 61 judgments in the E-archive of the Judiciary Council (in Dutch: Raad voor de Rechtspraak). We looked for reasons for imposing or not imposing learning sentences (So-Cool, TACT, TACT Plus and Tools4U) and interventions aimed at the family or system, which can be imposed as a special condition.

In this study, we focused on 2018-2019 because the 2020 coronavirus control measures had implications for the implementation practice.

Results

To what extent do the behavioural interventions suggested by the LIJ match the risk profile of juvenile offenders?

In 2018-2019, the LIJ included 20 recognised behavioural interventions. These can be imposed under different sentencing modalities: as a learning sentence (four interventions), as a special condition to a suspended sentence (12 interventions), during juvenile detention (four), as part of a PIJ measure (placement in an institution for juvenile offenders) (nine interventions), as a condition to a conditional PIJ measure (three interventions) or as part of the Social Conduct Order (in Dutch: Gedragsbeïnvloedende Maatregel or GBM) (eight interventions). In addition, three behavioural interventions specifically mention that they can be carried out as part of an education and training programme (in Dutch: STP) in the compulsory aftercare of juvenile detention. Finally, five interventions mention that they can be used as a condition for suspension of preventive detention. All interventions are designed for young people with medium or high ARR or DRP. The interventions can be categorised according to which risk factors are being worked on: deficits in cognitive and social skills, aggression regulation, substance use and transgressive behaviour and family or system. Most interventions are outpatient-based, some only occur in a Juvenile Justice Institution (JJI) or another residential institution, and some have an outpatient and residential component.

In the study, we zoomed in on the most common interventions. These are the interventions that can be imposed as learning sentences. They are two interventions aimed at deficits in cognitive and social skills (Tools4U and So-Cool) and two interventions aimed at aggression regulation (TACt and TACt Plus). For each learning sentence, there is a regular variant and a variant for young people with mild intellectual disabilities (in Dutch: licht verstandelijk beperkt or lvb). We also took a closer look at the family-oriented interventions that can be imposed under special conditions, among others (Multi System Therapy (MST), Relational Family Therapy (RGT), and Multidimensional Family Therapy (MDFT)).

The LIJ bases its automated suggestions on the inclusion criteria related to ARR and DRP, which are included in the manuals of the interventions. The suggestions from the LIJ, therefore, always correspond to risk profiles. RvdK investigators can also recommend interventions that do not match the risk profiles based on the Ritax or are not included in the LIJ.

At what stage does the RvdK adopt suggestions from the LIJ in its advice?

The RvdK investigator goes through six steps summarised in the figure below to arrive at a suitable advice based on the LIJ's suggestions. In step 7, the Public Prosecutor may or may not adopt the RvdK's advice, and in step 8, the judge may or may not follow the Public Prosecutor's recommendation.

Figure 1 Steps in the process from LIJ to the imposition of a behavioural intervention



The study shows that the LIJ's intervention suggestions are adopted only to a limited extent in practice. There are generally good reasons for this. A closer look at how the LIJ is used makes this clear.

RvdK investigators first check which punishment modality (community service, learning sentence, juvenile detention, GBM, PIJ, whether partly conditional or not) or juvenile probation fits best. They do not tick a box in the LIJ for this. But based on their choice, they select in step 1 whether they want an outpatient or residential intervention. The answer to this question determines which suggestions they get to see in the LIJ. If RvdK investigators do not yet know whether they want to recommend an outpatient or residential intervention, they can ask to see all suggestions. Because RvdK investigators cannot tick a box in the LIJ for the appropriate punishment modality, they will also see suggestions that are not relevant. Of course, they do not further assess these suggestions and therefore do not include them in the advice even if, given the young person's risk profile, they would be a good fit. For example, the choice ambulatory includes interventions that can be imposed as a learning punishment or as a special condition. It is also possible that multiple interventions are suggested for the same risk factors (such as deficits in cognitive skills or aggression regulation). In step 2, RvdK investigators assess whether the behavioural interventions suggested by the LIJ are appropriate based on the information on responsiveness and contraindications. In step 3, they check whether the interventions are available in their region and choose the suitable intervention. They may also decide to add an intervention themselves. So even in steps 2 and 3, suggestions can be made for behavioural interventions that are not relevant to adopt.

The study shows that RvdK investigators mainly assess and choose the interventions that can be imposed as a learning sentence. For 1177 out of 6646 young people (18%), the investigators advised and chose a learning sentence (So-Cool, TAcT, TAcT Plus and Tools4U). Learning sentences are outpatient interventions. The LIJ might suggest multiple behavioural interventions per person. The RvdK investigator decides - in consultation with the behavioural expert and in the multidisciplinary meeting (and with the community service coordinator, if necessary) - which of these suggestions is most fitting. Even if they do not recommend a learning sentence, the LIJ shows automated suggestions for these interventions. The percentage of young people for whom one of these four interventions is suggested varies between 20 and 33%. Subsequently, 24 to 34% of the suggestions are assessed, and 21 to 39% of the assessed interventions are chosen. We found that RvdK investigators are not always uniform when assessing these interventions, but that is partly related to their experience with LIJ and their experience as RvdK investigators in general. For example, experienced investigators who know the contraindications do not open these contraindications in LIJ for all suggested interventions. Instead, they "assess" and immediately choose the most suitable intervention. For about a third (447) of the young people who have been advised a learning sentence, the investigators added one of the four learning sentences in step 3. According to the LIJ score, these young people do not meet the inclusion criteria for ARR or DRP.

When choosing an appropriate intervention, RvdK investigators consider the responsiveness, the care history (e.g. a previous behavioural intervention), and ongoing youth support in which risk factors are already being addressed.

In addition, the council investigator considers whether the young person may need more intensive treatment - outpatient or in an institution. These are the most frequently cited reasons for substantiation in advisory reports. The reasons for adopting a behavioural intervention are often stated, but less so why an LIJ suggestion is not adopted. Also, the extent to which a choice is substantiated differs between advisory reports. Regarding the substantiation of recommending an intervention that the LIJ did not suggest, we saw in the file study that this was, for example, an lvb variant instead of the regular one. Or it was argued that there were risks in the domains even though the Ritax did not indicate this. However, based on the weighting of LIJ, this risk score is not high enough. In the interviews, RvdK investigators indicated that in some cases, they have a different view or belief that working on non-criminogenic risk factors reduces the risk of recidivism as well. LIJ-suggested interventions that could be imposed as special conditions are not often rated (between 15% and 21%) or chosen (between 1% and 12%) for several reasons. Some interventions target the same risk factors as learning sentences. If a learning sentence is already recommended, a similar behavioural intervention as a special condition has no added value. The advisory reports do not usually advise on the interventions that can be imposed as a special condition. This is left to the youth probation service. However, they do state which risk factors are important to work on to prevent recidivism.

Only 5% of the young people in the study received advice for juvenile detention and 1% for a PIJ measure. This advice is an appropriate punishment under the juvenile justice system for a relatively small group of young people. It is, therefore, logical that these interventions are hardly ever suggested by the LIJ. Subsequently, they are seldomly assessed either. The RvdK leaves it to the JJI to determine which intervention is appropriate.

To what extent do the prosecutors and sitting magistrates adopt the RvdK's recommendations for behavioural interventions?

Because it was impossible to enrich the LIJ data with the charge and sentencing data, we can only estimate the extent to which the Public Prosecutor (in Dutch: Openbaar Ministerie of OM) and the sitting magistrates (in Dutch: zittende magistratuur of ZM) adopt the advice. We base our estimate on file research in KBPS, sentences in the E-archive and interviews with prosecutors and judges. The respondents from OM and ZM usually adopt the advice. Based on the file review, we estimate that OM does this in two-thirds of the cases and ZM in 80% of the cases. Sometimes, the advice is not adopted because the case is dismissed or acquitted. Or a different punishment modality is chosen whereby the advised behavioural intervention cannot be imposed. The respondents from OM and ZM say that, based on their role, they allow the nature and severity of the crime and the severity of the punishment to weigh more heavily than the RvdK investigators do. In addition, the parents' or juveniles' lack of motivation, the already existing help that intervenes in the risk factors and the fact that juveniles have experienced a positive development since the RvdK's criminal investigation are all taken into account if the advice for a behavioural intervention is adopted.

LIJ's contribution to the personalized approach

The LIJ supports RvdK investigators in shaping a personalized approach to juvenile delinquency according to the principles of Andrews and Bonta's RNR model. With the LIJ, risk and protective factors are systematically mapped. The LIJ then calculates the recidivism risk and provides a profile of the risk factors, protective factors, and any concern signals. Based on this, the LIJ suggests interventions that fit the identified risks and needs. This system considers the risk principle and the need principle, which, together with the responsiveness principle, are the pillars of the RNR model. The LIJ does not assess whether the intervention is suitable according to the responsiveness principle. This is determined by professional judgement. The LIJ supports the RvdK investigators but does not force them to impose a particular intervention. Therefore, the investigator can deviate from the suggestions made by the LIJ. Sometimes the decision to deviate is based on good grounds. But not always. The RvdK investigators' experience with criminal investigations, experience with the LIJ, the method of recording and knowledge about the behavioural interventions seem to play a role in this.

Research limitations

This study had some limitations. Not all data needed to map all steps in the process, from suggestion to final imposition of a behavioural intervention, were available for this study. For example, it was impossible to enrich the data from the RvdK's KBPS registration system with data from the public prosecutor's office on the verdict. We did not receive permission for this from the Judicial Council. As an alternative, we conducted file research in the E-archive, but in this system, only 3% of the judgments needed for our study were registered. We were thus only able to estimate the extent to which the OM and ZM follow the advice and qualitatively describe their reasons for not adopting it. The data that could be extracted via KBPS also had some limitations because RvdK investigators do not similarly register the different steps in the work process. As such, the figures should be interpreted with some caution.

General conclusion

Despite its limitation, the study provides good insight into implementation practices and the complexity of choosing a suitable intervention. The picture that more young people are eligible for behavioural interventions is accurate in theory. But many suggestions from the LIJ do not fit the punishment modality that is recommended and imposed. Responsiveness and the counselling context also play a role that cannot be taken into account in the automated suggestions. The fact that in many cases the LIJ suggestions are not adopted in the sentencing advice should not be interpreted negatively. In general, we can conclude that working with the LIJ contributes to the accessibility of behavioural interventions and supports the personalised approach. However, the LIJ's added value could increase by checking whether the Ritax is administered in the same standardised way in all cases and steer towards a comparable assessing and registering method and thus justifying choices of interventions.

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