

Advisory Programme 2025

Introduction

The Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (referred to below as 'the RSJ') advises ministers at the ministry of Justice and Security and the ministry of Health, Welfare and Sport, either on their request or on its own initiative, on the application and implementation of policy and legislation and regulations relating to the administration of criminal justice and the youth domain. In line with the mission and vision of the RSJ, the point of departure for his advices are the humane and legally correct treatment of offenders and juveniles. Central to this is the protection of their legal status, while also taking account of the safety of society and any victims and relatives. The RSJ's advices are guided primarily by national law and the international framework for human rights and children's rights, along with the universal values and ethical principles on which they are based.

In November each year, the RSJ publishes an advisory programme for the following calendar year. In previous years that advisory programme included topics on which the RSJ advised following a request, as well as topics which the RSJ itself decided should be addressed. This year the RSJ has decided to put the advisory reports he provides without being requested separately in a multi-year programme. This means that the advisory programme which is now in front of you, only includes the topics the RSJ will work on in 2025 as a result of requests.

The topics the RSJ is going to advise on in 2025 on its own initiative will be included in the multi-year programme 2025-2028 which is to be published in early 2025. This will include, in any event, the already announced topic of 'the position of women within the criminal justice system'. Three basic themes have been defined, under which topics can be added which are in line with the RSJ's mission and vision. During an annual update, decisions will be taken regarding whether or not to add new topics to these three basic themes. In addition, current events may provide grounds for adding new topics to the (multi-annual) advisory programme in the interim. An up-to-date overview of all current advisory processes is always available on the RSJ's [website](#). This overview includes both advisory processes which have been initiated as a result of a request and those processes which the RSJ has initiated himself.

The RSJ will publish the next advisory programme in November 2025 and it will include requested topics and an announcement of the topics which are to be added to the multi-year programme.

Advisory reports requested by the ministry of Justice and Security¹

Provisional detention

The Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*, DJI) has been facing a worsening capacity shortage since the autumn of 2023. Capacity has had to be reduced due to staff shortages, while occupancy levels have increased. Acute measures have been taken in order to deal with the lack of capacity (a halt on convicted people reporting for detention, a halt on arrests of people with outstanding sentences and releasing people early), as reported in the letters to the parliament of 30 November 2023 and 15 March 2024.² Additional temporary measures have also been taken, such as capacity leave with electronic tagging, the continuing broadening of criteria for the Limited-Security Unit (*Beperkt Beveiligde Afdeling*, BBA) and increasing referrals to forensic care. However, other measures could also be taken to deal with the lack of capacity and some of the relevant ideas were included in the letter to the parliament dated 13 August 2024.³ Provisional detention is another area that could be reviewed, given that a large proportion of DJI's capacity is used for this purpose. However, the detainees in question have not yet been convicted by a court and by detaining them, they are occupying places which could be used for people who have already been convicted and cannot serve their sentences.

In this advisory report the RSJ will discuss how large the proportion of provisional detainees now is compared to DJI's capacity and whether this target group has any notable characteristics. Consideration will be given to how this group of detainees is dealt with abroad and whether experiences abroad may offer alternatives that could be applied in the Netherlands. If this is the case, the question of what it would take to implement this in the Netherlands needs to be answered. Would it involve simply a change in legislation and regulations or would more be required?



Use of Electronic Monitoring options in the case of juveniles

There is growing concern in society about the number of short terms of imprisonment and the negative impact they have on both adults and juveniles. Short terms of imprisonment are less effective when it comes to reducing reoffending because there is little opportunity to work on reintegration. They can even have a detrimental effect because of the interruption they cause to potentially protective factors in the detainee's daily life (home, school and income). The RSJ

¹ The RSJ has not received any requests for advice for 2025 from the ministry of Health, Welfare and Sport.

² *Parliamentary Papers II 2023/34*, 24587, No. 900. *Parliamentary Papers II 2023/24*, 24587, No. 937.

³ *Parliamentary Papers II 2023/24*, 24587, No. 967.

previously advocated reducing short custodial sentences and using alternatives more frequently.

In this advisory report the RSJ will consider which options are available for using Electronic Monitoring (EM) in the case of juvenile offenders. However, this means assessing both the front end of the criminal proceedings (for instance suspending the remand in custody) and the enforcement of sentences. An assessment will be carried out to determine which target groups EM is suitable for, and how this can best be combined with counselling, daytime activities and care. The aim is to encourage optimal reintegration, while also taking the safety of society and the interests of victims into account.

Dealing with juveniles outside the criminal justice system

Recently, two important developments have taken place in the Netherlands in relation to settling cases outside the criminal justice system. The list of offences for which a Halt intervention programme can be imposed has been extended with effect from 1 July 2024. The uniform procedure for police reprimands was introduced as of the same date. Publications by the UN Committee on the Rights of the Child also express a preference for settling cases outside the criminal justice system.⁴

In this advisory report the RSJ will identify the rights and/or interests associated with settling cases outside the criminal justice system during the various stages of the juvenile justice process. This means looking at the rights and/or interests of different actors involved, in other words: the juvenile, the victim, society and the criminal justice chain. The RSJ will examine the extent to which rights and interests conflict and how to deal with any dilemmas which might occur. Based on the findings, the RSJ will address the question of whether there is reason to adapt and/or supplement the range of methods and procedures which are currently available for settling cases outside the criminal justice system.

Child-friendly legal procedures in the context of divorce

Many parents with children manage to go through a divorce without too many problems. However, there will always be some parents whose divorce turns into a conflict. These parents end up in court and, in most cases, this has detrimental consequences for the children who are part of this process.

The ministry of Justice and Security is therefore reviewing what is necessary and possible to make legal divorce proceedings as child-friendly and de-escalating as possible. It was with this goal in mind that the 'child-friendly divorce procedures' project group was set up, whose participants include partners from the field. The project group is working towards producing a report, to be published in 2025, on how legal divorce procedures can be made more child-friendly.



⁴ UN Committee on the Rights of the Child, General Comment No. 24 on children's rights in the child justice system, 18 September 2019.

The RSJ has been asked to use its expertise in the field of children's rights and interests in order to produce an advisory report on the report produced by the project group. This advisory report will then be used to fine tune the project group's report.

The transfer and outflow of young adults following a Placement in an Institution for Juveniles order (PIJ-maatregel)

For several years young offender institutions have been struggling with the transfer and outflow of juveniles who are subject to a Placement in an Institution for Juveniles order. The problems relate to a small group of young people, who often have a complex combination of problems, including psychiatric problems and aggression, whether or not accompanied by a mild intellectual disability. However, the group also includes, for example, juveniles who are persistently and seriously at risk of reoffending. These young people often need to be provided with care while being detained. The young offender institutions have trouble finding a follow-up placement for these young people in the mainstream mental health system, or within the social domain. As a result, these young people sometimes have to spend longer than necessary in a young offender institution. Although these young people are 'juveniles' according to the definition in the Youth Act (*Jeugdwet*), they are almost always adults



by the time a follow-up placement has to be found. A failure to provide these young adults with the care and guidance they need can put their development and the safety of society at risk.

In this advisory report the RSJ will discuss, among other things, the problems that exist with regard to the resocialisation, reintegration and

transfer and outflow of young adults who are subject to a PIJ order. The RSJ will also assess the applicable legal frameworks and the powers and responsibilities arising from them, as well as cooperation within the chain. This will provide a basis for the RSJ to formulate possible solutions.

Substance use in forensic care

Disorders which are related to substance use are prevalent in forensic care and are usually accompanied by periods of patient relapse. One problem when it comes to (addiction) treatment in a criminal justice setting is that there are consequences to any violation of the conditions imposed (for example in the form of substance use). These consequences could include the withdrawal of freedoms the detainee has earned (leave) or placement (back) to a part of the institution where there is a higher level of security. The above applies even though we know that, from a treatment perspective, relapsing is part of the road to recovery. In such a situation, the treatment goals and security measures are at odds with each other.

In this advisory report, the RSJ will address the question of how a better balance can be created in terms of the offender's legal position, while taking account of the need for effective rehabilitation, a safe society and a safe climate within the institutions.

Expected consultations legislation and regulations

Consultations coming from the ministry of Justice and Security:

- Bill containing the first tranche of improvement proposals following the evaluation of the Hospital Orders (Framework) Act (*Beginselenwet verpleging ter beschikking gestelden*).
- Bill on alternative reassessment in the context of life sentences.
- Amendment of the Criminal Code (*Wetboek van Strafrecht*) in connection with the criminalisation of deprivation of liberty and electronic surveillance.
- Amendment of the Regulation on the admission and refusal of visits and the restriction of telephone calls in penitentiary institutions (*Regeling toelating en weigering bezoek en beperking telefooncontacten penitentiaire inrichtingen*).
- Regulation laying down the model house rules for the Intensive Supervision Unit and the Maximum Security Facility.
- Bill to amend the Young Offender Institutions Framework Act (*Beginselenwet justitiële jeugdinrichtingen*) (and underlying legislation and regulations).
- Bill relating to the careful phasing out of inter-country adoption and some other provisions.
- Bill to boost legal protection in a child protection context.

Consultation coming from the ministry of Health, Welfare and Sport

- Bill to amend the Compulsory Mental Health Care Act (*Wet verplichte geestelijke gezondheidszorg*) and the Care and Compulsion (Psychogeriatric and Intellectually Disabled Persons) Act (*Wet zorg en dwang*) (possibly in combination with an amendment to Article 2.3 of the Forensic Care Act (*Wet forensische zorg*), via the ministry of Justice and Security).