

OPTIMAL SECURITY FOR OFFENDERS DURING PENITENTIARY STAY AND TRANSPORT

**AN EXPLORATIVE STUDY OF POSSIBLE DISCREPANCIES,
DIFFERENCES, SOLUTIONS AND COSTS**

SUMMARY

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The present research, commissioned by the WODC¹, was conducted in response to the policy question risen at the Dutch Prison Services (DJI) whether the current security regulations lead to the (re)assignment of offenders in optimum levels of security during their stay (housing) and during transport. DJI defines optimal security as: "a balance between public interests (such as reducing the escape risk, lowering recidivism opportunities, attention to interests of victims or survivors), the offenders' interests (of leave, work and training opportunities) and costs". The assumption of DJI, discussed in chapter 1, has been that some offenders may not be housed and transported within in an optimal level of security.

The research has been designed as an exploratory study, aiming to answer three key questions:

- 1. To what extent support can be found for the proposition that an adjustment of the current method of security level assignment (SLA) of offenders to optimal and possibly lower (starting and subsequent) levels will lead to fewer escapes, fewer violent incidents, a reduction in recidivism, and lower costs?*
- 2. To what extent support can be found for the proposition that there is often a discrepancy between the security levels regarding housing and transport of offenders? If there is any discrepancy, what are the possibilities for better aligning?*
- 3. If possibilities for optimizing the security of individuals arise: what are (indications of) their financial consequences?*

In order to answer these key questions, a detailed research design and plan was developed (Chapter 2), with a focus on scientific literature (discussed in Chapter 3), an exploration of foreign experiences regarding SLA (discussed in Chapter 4), and an in-depth analysis of the current Dutch situation (chapters 5 and 6). In Chapter 7, conclusions and opportunities for improvement are discussed.

In the Netherlands, the current method of SLA comprises of five levels: 1) very limited security, 2) limited security, 3) normal security, 4) intensive security 5) very intensive security. Placement of offenders within levels and 1 and 2 leads to increased possibilities for outside leave, but is restricted by time limits: only with a remaining sentence of 18 months, the offender is allowed to proceed to level 2, and placement in a very limited security establishment (level 1) is only possible with a remaining sentence of 6 months. This method of SLA is currently under policy pressure: Chances are substantial that level 1 and 2 (and their corresponding physical open institutions) will disappear, and will be replaced by a new SLA comprising of 3 levels: high, normal and low security, and a corresponding new system of gradual allocation of inside and outside liberties. Within the current normal security level (3), a distinction is made between a primary program and a plus program. Offenders start within the basic program, and only after a minimum of six weeks and

¹ Research and Documentation Centre of the Dutch ministry of Safety and Justice.

when exhibiting good ("green") behavior, the offender is allowed to promote to the plus program. This promotion leads to more liberties and opportunities for activities. The distinction between the basic and plus programs will not change in the future.

In Chapter 2, the research design is discussed. The following choices were made:

The study is limited to adult prisons and does not cover forensic psychiatric centers. Within adult prisons, sentenced offenders reside as well as offender awaiting their trial. The study is also limited to offenders placed within the normal security level (3): this is the largest group, and the group for which the greatest improvements can be achieved in terms of possible lighter levels of housing and transport.

- The basic and plus program also considered as separate security levels in this study, because they are accompanied by more or less liberties and responsibilities for offenders.
- "Foreign experiences" is a broad concept. In consultation with the advisory committee of this study, we decided to only investigate the situation in Great-Britain, Germany, Canada and Norway.

The following activities took place:

- Analysis of scientific literature and documents regarding the relationship between SLA and recidivism, escapes and the use of violence, and regarding the SLA in the four selected countries.
- Interviews with foreign experts, prison staff in the Netherlands and other Dutch stakeholders
- Examination of jurisprudence
- Data analysis of traffic movements of offenders

To discuss the literature search in chapter 3, we first introduced a model, in order to distinguish the different aspects / characteristics of SLA and its' possible relationship with recidivism, violence and escapes. We distinguish between:

1. Deprivation variables, focusing on the deprivation of liberty (incapacitation) and structure of prison life.
2. Import variables, under the assumption that also personal characteristics of offenders can contribute to their behavior during detention and thus affect recidivism, violence and escapes.
3. Situational variables, assuming that offender behavior can also be explained by specific situational characteristics in the prison environment. A security level within any SLA system, can be considered a situational variable.

SLA and recidivism

Scientific literature discussing the relationship between SLA and recidivism is limited. Research shows that prison life in general does not lead to reduction in recidivism (Slop et al, 2009; Cullet et al., 2011). Despite this finding, there are some possibilities to mitigate the negative effect of detention (deprivation) by focusing prison on specific individual deprivation, import and situational variables. This is in line with the "principle of the minimum limits" in Dutch penal law. Research by Chen & Chaprio (2007) and Gaes & Camp (2009) shows that a lower security level (a situational characteristic) has a positive effect on the reduction of recidivism. In addition, contact with family and social network has a positive effect on recidivism (Cochran, 2013). Liebling (2016) shows that the prison moral climate (a deprivation variable) is decisive for a positive outcome of prison life in terms of reducing recidivism. In addition, focusing on certain import variables can gave a positive effect on recidivism: projects aimed at changing behavior, rehabilitation / treatment and social inclusion (rehabilitation) have better effects than deterrence (Wartna, 2013).

SLA and violence

Much research on violence in detention has been conducted, but seldom with a specific focus on the possible link between SLA and violence. Only Camp and Gaes (2009) report that less stringent regimes, with more freedom and autonomy, are clearly related to a reduction in violent incidents. Molleman (2014) concludes that it is plausible that a lower security level is not associated with more violence. However, this reduction can also be explained by other factors, such as the diversity of individuals (import variables) or their mutual contact (situational variable). This is confirmed by other studies:.

- The nature of the punishment and the treatment of offenders by prison staff (both deprivation variables) influence the occurrence of violence. Dutch research shows: better relationships between prison staff and offenders, and a greater emphasis on being helpful towards offenders, is associated with less prison violence (Molleman, 2011). This finding is consistent with the recommendation of Liebling (2013), that prison staff should focus more strongly on harmony values than security values, in order to prevent violence.
- Import variables showing impact on violence that appear in the literature are the nature and seriousness of the criminal record, and participation in a criminal group (Arbach et al 2006. In Cunning, Sorensen & Reidy, 2005; Walters & Crawford, 2013).

Regarding the relationship between SLA and violence after release, we can say very little. The use of violence after detention can also occur under the influence of factors that exert their action only after release. However, a Dutch study shows us that the degree to which an offender is allowed outside visits is related to committing a violent offense after release. Offenders receiving less visits are more often involved in violent incidents after their release, and have more depressive symptoms (Molleman, 2014).

SLA and escapes

Scientific literature on the relationship between SLA and escapes (including not returning after a granted leave) is virtually absent. Escapes are very rare in the Netherlands. Non-returns are more frequent, but these numbers are also declining. It might seem that more liberties / freedom (a situational variable) could increase the risk of an escape / non-return, but we do not know how this is related to import, deprivation and other situational variables. It should also be noted that more liberties can lead to more compliance, because the offender now experiences that he can now lose what has been granted to him.

Foreign experiences are discussed in Chapter 4. Great Britain, Germany, Canada and Norway use different security levels, but in all countries the offender may proceed to a less secure facilities over time, as is the case in the Netherlands.

The system in the UK is built almost entirely on avoiding escape: this risk determines the security level of every offender. Germany focuses on the individual treatment plan of the offender as guiding line for SLA. This plan combines preventing recidivism taking individual responsibility. Canada places the protection of society first, through programs that make a gradual and controlled transition from prison to society possible. For the Canadian SLA validated structured tools for assessment are available, including a specific risk assessment to support the choice of security level. In Norway, many offenders are imprisoned, when compared to other Nordic countries. Only

under formal juridical conditions, prisoners can be released and supervised by the probation service. Negative effects of the deprivation variables of prison life are sought after by giving offenders more autonomy (such as work, education and cooking), and the deployment of services in the immediate vicinity (such as education), in order to mimic the living conditions outside of prison. As said, SLA in Norway heavily depends on formal criteria. These criteria do make use of an assessment of the offenders behavior, but without the use structured risk assessment. The Norwegian system emphasizes a good relationship between staff and offenders, and such instruments are considered as possible barriers / impediments within this relationship. Staff is trained to keep the relationship optimal through dynamic, situational risk prevention and management.

Very little research on the SLA in these countries is available. This is an important result in itself: the SLA systems are not questioned very much, and seem to be taken as more or less for granted. If discussions do arise, they seem not to be based on research findings.

An important exception to this are the Canadian structured risk assessments used for SLA and individual treatment planning. The Custodial Rating Scale (CRS, developed in 1987, used for SLA), is a constant subject of research. For the present study, the research Luciani is important (2001). A broadening of the criteria in the CRS, allowing more offenders to start at the lowest security level, appeared as feasible in this study: A higher number of offenders could start at the lowest level of security, without an increase in violence, escapes and non-returns to be expected.

Price (2000), discussing the SLA in Great-Britain, contends that the system was actually unworkable from the start. He argues that this SLA requires so much maintenance and adjustment, that it has become very difficult to understand and explain to both staff and offenders. Liebling also notes that having offenders start at a high security level does not lead to more security, but does lead to less (investment in) behavioral change (2014).

Research in Germany focuses on more effective treatment plans, and less on the SLA itself.

In Norway, for individuals at the outset of their detention clear what the criteria for phasing and final release under the condition of probation supervision (prøveløslatelse). According Finstad this gives a positive contribution to the behavior of individuals in the establishment (Finstad, In: Nijboer et al., 2001). In contrast, that the system of strict criteria in Norway also problems (waiting lists and inadequate transfers), which led to additional costs (training and personnel) to the lowest security levels, and increasing orientation on the possible deployment of structured risk assessment yet.

Chapter 4 concludes with a number of best practices, including the introduction of the moral climate as an organizational principle for prisons (UK and Norway), the ongoing application of risk assessment (Canada and Great Britain), and importing services from outside prison and the commitment of citizens to work to return to society to make it attractive and relevant (Norway). However, the practices should be carefully researched and possibly adjusted before introducing them in the Dutch prison system.

Chapter 5 discusses the current Dutch SLA, based on interviews with respondents of the different justice organizations involved, with a focus on the normal security level. The respondents are generally positive about the current system, but also point out certain possible improvements: Information exchange is mentioned by all respondents as the most important area for

improvement. In addition, respondents call for improvements in post-release aftercare, strengthening social contacts and a change in the vision of the staff towards offenders.

According to respondents, it is well worth considering placing offenders on a lower starting level of security. A precondition for this is improving the exchange of information between organizations (public attorney, court, probation, prison system, psychiatric assessment services and municipalities). A second precondition is the assurance of the experience of “procedural justice” by offenders: prison staff needs to make clear why some offenders are allowed more liberties, and others not. In addition, and connected with the previous point, respondents call for improved staff contact / relationship skills. Finally, more research is needed to examine whether offenders can be granted more autonomy within the prison facilities, according to the respondents.

Chapter 6 discusses the current practice of offender transportation. The Dutch transport SLA has three levels: regular, enhanced and special. Only when the offender has special features, he will be selected for the enhanced or special level. In more than 90% of all cases, offenders are transported within the regular level. Some offenders in low or very low security levels are allowed to travel without supervision.

A discrepancy is visible between the housing SLA and transport SLA: they have different levels and use different criteria. According to respondents, this reflects the different conditions within prison and outside prison during transport (with greater escapes risks, and therefore a greater emphasis on the safety of society during transport). As a consequence, both staff and prisoners do not experience a direct relationship between the level of security in prison and during transport. The respondents believe that some offenders are being transported under to strict conditions. This opinion is supported by past and ongoing initiatives: experiments have started to transport offenders in other ways, more tailored to the individual, and with the use of a risk assessment. The Dutch prison system does not calculate the costs of transport based on movements, but on the required workforce. Respondents however express that work is increasingly efficient by combining trips. Additional savings are possible, according to the respondents: improving judgments whether an individual can travel without supervision, and in the logistics of planning transport movements..

In chapter 7, the 3 key research questions are answered. The present study has some limitations, which pose a risk to the quality of the results and conclusions. Results may be affected by a one-sided selection of respondents with a particular view or opinion, and by deficiencies in finding scientific publications. We have tried to mitigate these risks by speaking a wide representation in the selection of respondents within both the prison and in partner organizations. Nevertheless, the numbers of respondents are small, and the number of prisons is limited.

With regard to the results of the research literature, a possibility remains that one or more studies of interest have been missed. The vast majority of studies come from abroad. The detention environment, the public and political opinion on punishment, detention and rehabilitation, legislation and regulations governing detention, and characteristics of individuals and their network itself, may differ from the Dutch situation. The definitions of risks, programs, violence, escape and recidivism do not necessarily match with the Dutch equivalents. Our conclusions and recommendations are therefore accompanied with the need for additional Dutch (replication) research, in order to strengthen the generalizability.

We draw the following conclusions.

Question 1. To what extent support can be found for the proposition that an adjustment of the current method of security level assignment (SLA) of offenders to optimal and possibly lower (starting and subsequent) levels will lead to fewer escapes, fewer violent incidents, a reduction in recidivism, and lower costs?

The results of the literature lead to promising options for the Dutch situation. However, we present our conclusions with reservations. When necessary, we add a recommendation for Dutch (replication) research.

On the basis of the research discussed, we can conclude:

1. Based on the social importance of lower recidivism, optimal security level assignment for offenders is primarily aimed at *rehabilitation* of the person concerned, unless the safety in society (in general, or regarding the specific interests of victims), warrants more strict conditions or the refusal of prison leave.
2. A less strict / lowest possible security level as a starting point probably contributes to reducing recidivism, and will probably not contribute to more serious violent incidents or escapes (point 2 must be examined in the Dutch situation).

Important within this context is the following:

3. Offenders in all security levels are granted opportunities for contact with their social network.
4. Offenders in all security levels are enabled individual activities aimed at their return into society (such as education and work, but also training and treatment).
5. Especially in shorter detention periods, offenders need to be explicitly invited / motivated to embark on these individual activities (point 5 should be examined in the Dutch situation).

Regarding violence in prison, we conclude:

6. Violent behavior prior to detention has little predictive value for violence in detention. Because this behavior is still in use as a predictor, too many individuals are now probably placed in a too high level of security. This situation is unfavorable in terms of rehabilitation, recidivism (there are fewer liberties to work on behavioral change), and possible victimization (within higher security levels, there is more serious violence). (point 6 must be examined in the Dutch situation).
7. Should the Dutch prison system accept and adopt our conclusion that a placement in a security level as low as possible is warranted as a general policy, a discussion around light and moderate violent incidents is needed. As long as these incidents still directly lead to placement in a higher level of security, this new general policy will probably not work. The research discussed shows us, that mild violence is present in all levels of security. When (clearly defined) "light violence" is accepted by the prison system as 'not tolerable, but also part of life', and will no longer automatically lead to more security, this will increase the positive effects of placement of offenders in the lowest possible level of security (section 7 must be examined in the Dutch situation).

We also formulate the following conclusion:

8. The possible positive effects of starting at the lowest possible level of security may be reduced or mitigated, if not at the same improvements have been made in the current practice regarding the use of structured risk assessment for granting liberties and leave. Canada can be regarded as a guide country in this regard.

The study of foreign experience gives rise to some additional conclusions. In addition to point 1), we state that the British SLA should be avoided: This system makes use of safety / control criteria to decide about both granting liberties and rehabilitation/treatment. This leads to unwanted ongoing adaptations of the system and staff confusion.

The SAL in Britain and Norway show us:

9. Prison staff expressing their authority and legitimacy primarily through their relationships with individuals, and only secondly by the formal rules, have better relationships with offenders. This also applies for the legitimization of expectations towards offenders within security levels, changes in security levels, and granting of leave. Any formal change in SLA ("new formal rules") means a change in the relationship between prison staff and offenders, and warrants extra efforts for support and professional development.

The SLA in Great-Britain shows us:

10. The moral climate of the entire prison, aimed at activating the development potential of individual offenders, supports both successful rehabilitation of offenders and safety in prison.
11. Starting at a lower level of security does not mean that all offenders will therefore more motivated for behavioral change. The 'rational choice model' (meaning that the offender will opt for change if he is being motivated and rewarded for that purpose") finds its limits with individuals for whom prison life is an exceptional burden: these offenders are too tired, anxious or depressed to invest in behavior change as a consequence of more liberties. For them, maintaining their dignity is more important than being 'rewarded'. For these offenders, rehabilitation is still the main purpose of SLA, but they themselves are (temporarily) unable to connect to rehabilitation efforts (point 1q should be examined in the Dutch situation).

Opportunities for improvement of the Dutch prison SLA focus on improving current initiatives and embarking on new challenges.

Current initiatives in which improvements can be made, are:

- The Prison Detention and Re-integration plan;
- Linking this plan to continuing structured risk assessment with the RISc (the Dutch probation risk assessment system);
- Despite financial and organizational pressures on the prison system, a decisive focus on professionalization of prison staff, most importantly on motivational interviewing and improving a working alliance with offenders, and
- The deployment of outside services within the prison, for maintaining contact with the outside world.

New challenges include:

- Increased involvement of offenders in decisions made about their own security and leave, in order to increase the experience of procedural justice;
- Establishing a research practice for SLA, based further development of the RISc for use within the prison system, and
- Thinking about new ways for SLA during short detention sentences.

A further improvement of prison life by adjusting the SLA towards a start with more liberties for offenders, can be understood by the general population or specific (family members of) victims as a reduction of punishment, as a too lenient or 'soft' approach, and therefore not considered as legitimate. These experiences are subjective and do not lead to legal arguments to waive adjustment of SLA). On the other hand, these experiences are strong, and a reality for the prison system to deal with. Information for and communication with victims, relatives and the general population are therefore essential for support of a possible adjustment Dutch prison SLA. In this context, the prison system could highlight the added value of further developing the RISc for use within the prison environment, because the section for "pre-sentencing and prison leave advice" of this instrument also takes the public interest into consideration.

Question 2: To what extent support can be found for the proposition that there is often a discrepancy between the security levels regarding housing and transport of offenders? If there is any discrepancy, what are the possibilities for better aligning?

1. Our first conclusion is that thorough research into this presumed is not possible, due to very different security levels and criteria

In spite of the above, many clues emerged in this study that point at the existence of a discrepancy between the levels chosen for offenders by the SLA for prison housing and the levels chosen by using the SLA for prison transport. Moreover, there are no indications to the contrary.

2. We therefore conclude that there is very likely a discrepancy between security levels for prison housing and prison transport for offenders.

Several opportunities for improvement are discussed. Of these, improving the provision of information is most important. The transportation department of the Dutch prison services relies completely on outside information to make choices, and these procedures can be improved. In addition, the use of risk assessment focused on escape during transport could be improved, and more differentiation SLA for transport could be considered, especially unescorted leave.

Question 3. If possibilities for optimizing the security of individuals arise: what are (indications of) their financial consequences?

This question appeared as not easy to answer.

1. For offender prison housing, we conclude that is possibilities exist to realize cost savings, if more offenders can start at a lower security level. A decline of serious violence at higher security levels could be expected (yielding higher costs), and social costs of recidivism could also drop. These results are far from certain. Our statements are based on foreign research, and execution of the plus program within the normal security level is also more expensive than the basic program. In addition, the lowest level institutions (4 and 5) will probably disappear, which could lead to higher costs of the remaining, more secured facilities. Savings can probably be achieved by giving offenders more autonomy and responsibility during their prison life. They can take over some staff tasks, allowing staff to focus on the relationship with offenders.
2. Regarding transport, our conclusion is that greater differentiation (which we support) may lead to increased costs. Savings could possibly be achieved by enhancing the possibilities for unescorted leave. For these options, additional research is needed.

The participation of experts, respondents and members of the supervisory committee in this research does not automatically imply their consent to the entire contents of this report. For this, only the researchers are responsible. The same applies for the Ministry of Security and Justice and the Minister.