

Summary

Output of criminal cases

This report describes the results of the quantitative research by WODC (the Dutch abbreviation for Wetenschappelijk Onderzoek- en Documentatiecentrum, in English: Research and Documentation Centre) on the nature and scale of the output of criminal cases from the criminal justice system. This research was carried out at the request of the VPS programme (Versterking Prestaties Strafrechtketen), a programme intended to raise the output of the criminal justice system commissioned by the Ministry of Security and Justice in response to the report from the Dutch Audit Court entitled *Prestaties in de strafrechtketen* (Performance of the criminal justice system). The research comprises two sections: an analysis of the nature and scale of the output from the detection phase and a system-wide analysis of the output from the criminal justice system from the time of the input into the Public Prosecution Service. This system-wide analysis comprises the following phases: prosecution, judgment and enforcement.

The research used an innovative and tested method for following criminal cases through the criminal justice system between several system partners. The results achieved using this method show how many criminal cases entering the system in 2010 and 2011 were processed within two years and left the system, and how many cases were still in the criminal justice system after two years. The research also provided an insight into the nature of the output (the way in which the case left the system). For cases that had still not left the system after two years, it was mapped out in which phase of the criminal justice system they remained.

The research did not make use of aggregated data, as in the research done by the Audit Court, but instead used so-called 'micro-data'. This is data at the level of individual criminal cases. As a result, and contrary to what the Audit Court determined, it is entirely possible to record and quantify the input, output and throughput of criminal cases in detail (at case level) for a large part of the system (from the prosecution phase). Following up on the Audit Court research, which determined that, as regards its scale, an unknown part of the output from the criminal justice system is 'unwanted', the WODC (Research and Documentation Centre of the Department of Justice) also attempted to quantify the unwanted output. This turned out to not be possible, because the unwanted output can only be defined qualitatively. It is not possible to formulate any objective and practically applicable rules with which to quantify the desirability or undesirability of the output. The mere fact that a case has left the system in a certain manner does not allow us to draw the conclusion that the way it left was unwanted. This requires a substantive consideration and assessment of the case, which only system professionals can do. Therefore, the output has only been classified according to its nature, without qualifying the output as wanted or unwanted.

Definitions

This research uses the term output to describe criminal cases leaving the criminal justice system. Output of criminal cases can happen at various moments in the

system. Therefore the nature of the output can vary. For cases that have left the system, the phase and the manner in which the case left the system are specified. When analysing the detection phase, output applies as soon as the police have processed a case and it has left the detection phase (for example by dismissing the case or a reprimand, or if the case has been passed on to the Public Prosecution Service). There is output in the system-wide analysis if a case that entered via the Public Prosecution Service has left the system (this may occur in the prosecution, judgment or enforcement phases) and therefore no longer passes through to another system phase or system partner.

A criminal case is equivalent to a Public Prosecution Service registration number in the system-wide analysis. This number is assigned by the Public Prosecution Service and is also used by the partners in the judgment and enforcement phases. Every Public Prosecution Service registration number relates to a single suspect, but may encompass multiple criminal offences. A criminal case in the system-wide analysis is therefore equivalent to one person who is suspected of one or more criminal offences. In the detection phase a different definition of a criminal case is used, because the Public Prosecution Service registration number is not yet known at this stage. In this research, a criminal case in the detection phase is equivalent to a single suspect within a police report (a police report-suspect combination). Just as in the case of the Public Prosecution Service registration number, this combination always only comprises one suspect, but in some cases may include several criminal offences.

Method

The following organisations provided data at case level for the purposes of the research: the police, the Public Prosecution Service (OM), the prosecuting magistrates (ZM - comprising: the District Courts, Courts of Appeal and the Supreme Court of the Netherlands), the Central Fine Collection Agency (CJIB), the three probation organisations (3RO) and the Child Care and Protection Board (RvdK). Partners who play a supporting or advisory role in the criminal law process (e.g. the Legal Aid Board (RvR), the Netherlands Forensic Institute (NFI) and the Netherlands Institute for Forensic Psychiatry and Psychology (NIFP)) were not researched. The advisory tasks of the 3RO and the RvdK were also not included in the research.

In order to give the fullest and most reliable picture of the output, this research considered criminal cases that entered the criminal justice system via the police and the Public Prosecution Service between 1 January 2010 and 31 December 2011. These cases were followed through the system during an observation period of two years. The analysis of the detection phase only concerns crimes. The system-wide analysis concerns both crimes and violations (excluding traffic violations under the Mulder Act (Traffic Regulations (Administrative Enforcement) Act - Wahv)). No categories of offences were excluded in advance and we looked at both adult and juvenile suspects.

The so-called cohort method was used to determine whether there was an output. This cohort method follows a specific population (a cohort) of cases with an equivalent input moment for the duration of a specific observation period. Thus, a cohort consists of a set of criminal cases that entered the system during the same period. This research used an observation period of two years. Each criminal case was followed up to the output moment or until precisely two years had passed since the input.

Analysis of the detection phase

The analysis of the detection phase comprises two sections: 1) a measurement of the output from this phase and 2) an analysis of the interface between the police and the Public Prosecution Service.

In the first part the research looked at criminal cases where the police questioned one or more suspected offenders during 2010 and 2011. The date of the first questioning was used as the input date in this regard. For each case the cohort method determined whether the case was processed by the police within two years and, if so, how (e.g. by sending the police report to the Public Prosecution Service, dismissing the case or a reprimand).

The second part recorded the administrative interface between the police and the Public Prosecution Service by means of a twofold analysis: from the police to the Public Prosecution Service and vice versa. It was also examined whether the cases that the police sent to the Public Prosecution Service can indeed be found at the Public Prosecution Service. The research also looked at whether the cases registered by the Public Prosecution Service which emanated from the police can be traced back to the police.

System-wide analysis

The system-wide analysis looked at cases that entered via the Public Prosecution Service during 2010 and 2011. The date of registration at the Public Prosecution Service was used as the input date.

To be able to follow cases through the criminal justice system (between the various phases), micro-data were collected from the various system partners and integrated into an analytical database, on the basis of the Public Prosecution Service registration number. It was assumed here that data with the same Public Prosecution Service registration number are part of the same criminal case.

The relevant events that took place per case were sorted chronologically in the analytical database. This yields a detailed picture of the development of each case so that it is possible to determine which decision was taken on which date and by which system partner. It is possible to determine for each case with the use of this database whether the case has left the system and, if so, how. There is output when a criminal case leaves the criminal justice system. If a case has not yet left the system, then it is possible to determine in which phase the case remains.

The above-mentioned cohort method was used in combination with a reverse method to determine whether there was a question of output. This method looks at each case backwards through the system, starting with the enforcement phase. The relevant events during the various phases of the criminal justice system are checked, ending with the input time. Each case is then classified on the basis of the last known status under one of the following three main categories:

- 1 criminal cases that have left the system;
- 2 criminal cases that have not left the system; and
- 3 criminal cases where the output was not measured or cannot be measured.

Results

Detection phase

- Out of the 533,808 criminal cases where the police questioned a single suspect during 2010 and 2011, the police processed 99.5% of the cases within two years.
- Out of the suspects who were questioned, 79% were sent to the Public Prosecution Service for prosecution, and 11% of cases were dismissed. In the other

cases, the suspect was given a HALT settlement (out-of-court settlement offered to juvenile offenders involving community service or educational tasks) (2%) or a reprimand (0.5%), or there was some other settlement (7%).

Connection between police and the Public Prosecution Service

- Out of the criminal cases – according to the police – passed on to the Public Prosecution Service (police report-suspect combinations) regarding criminal offences, 76% can be found in the records of the Public Prosecution Service.
- Out of the criminal cases registered with the Public Prosecution Service (Public Prosecution Service registration numbers) regarding criminal offences, originating from one of the police forces and with a first interrogation in 2010 or 2011, 77% can be found in the police's data set.

With the method and the available data used in this research, the WODC cannot determine why certain cases cannot be found. Improved coordination between the police and the Public Prosecution Service is foreseen for the future with the national implementation of BOSZ (Betere Opsporing door Sturing op Zaken – Better Detection by Coordination of Cases).

System-wide analysis

- Out of the 658,457 criminal cases that entered the Public Prosecution Service during 2010 and 2011, 71% were processed within two years and left the system. Out of the cases that entered the system, 26% had not left the system within two years. In 3% of cases it was not possible to measure the output due to lack of detailed data. In all these cases a first substantive decision was taken by the Public Prosecution Service or the court.
- A case leaves the system if the sanctions imposed have all been positively settled (45%), or if the Public Prosecution Service (15%) or the court (11%) has passed a criminal justice decision without imposing any sanction, for example dismissing the case or a not-guilty verdict.
- After two years, 19% of the total input into the Public Prosecution Service is still in the enforcement phase. These are, for example, cases where a fine was imposed that has not yet been paid in full or a prison sentence that has not yet been fully served.
- After two years, 6% of the cases that have entered the system are still in the enforcement phase (19,028 cases) or the judgment phase (22,656 cases). These are criminal cases where the Public Prosecution Service has not yet taken any final decision or where the court case is still pending in the first instance, on appeal or in cassation.

Conclusion and discussion

The nature and scale of the output has been measured in this research on the basis of the data at case level provided by the system partners concerned. This means that the reported results depend strongly on the quality of this data: errors or omissions in the data directly affect the accuracy of the results. It is therefore necessary to bear in mind when interpreting the results that such errors can occur and that registration systems do not always reflect the reality.

Also, the reported results offer only a limited view of the underlying reasons why certain cases do not go through or leave the system, because of the applied quantitative approach. On the basis of the available data, it is not possible to determine what has already been done in a case and what the possibilities are to expedite the

case. This was investigated in separate qualitative research by research agency Significant for the 6% of cases that are still in the prosecution or judgment phase after two years. It appears that there are various reasons why cases do not leave these phases within two years. It can be because of the nature of the case itself, procedural, technical or organisational reasons, or a combination of these. The main substantive reasons are: there is a connection to another case (for example there are several suspects) or the case has been adjourned for further investigation.

The present research shows that the input and output of criminal cases can be made transparent in detail, and hence can be accounted for, from the prosecution phase on. As this is a first quantification and a reference framework is lacking (there are no comparable measurements available), the results are difficult to interpret. Therefore no statements are made here about the value (in terms of 'good' or 'bad') of the results that have been achieved. It is advised to repeat the measurement at some point, making it possible to place the current performance in perspective.

Future

The research presented here offers a number of reference points for follow-up research. After all, there have been many changes to the criminal justice system since 2010. On the one hand, there have been changes resulting from legislation (the reorganisation of public prosecution services, district courts and courts of appeal, formation of the National Police force and the introduction of Public Prosecution Service penalty orders - strafbeschikkingen). On the other hand, this concerns changes in working processes in order to reduce throughput times in the system (from the ZSM, Strafrechtketen Versterkt en Versnelt and Uitvoeringsketen Strafrechtelijke Beslissingen programmes). Most of these changes dating from after 2011 are not reflected in the results involving cases that entered the system in 2010 and 2011 but will probably have an effect in the future. The method developed here makes it possible to measure the effect of these measures (on the nature and scale of the output). It is therefore recommended to repeat the measurement of the output in 2019 for criminal cases that entered the system in 2016, because most of the improvement measures are expected to have taken effect in that year. The results presented here can then serve as a zero measurement. The methodology and analysis database developed in this research offer the possibility of carrying out such follow-up measurements relatively easily and potentially to proceed to a structural monitoring of the output.

Information management in the criminal justice system has also changed since 2011, in addition to the above-mentioned process changes. Various new registration systems have been introduced or are being developed (BOSZ, CAV, INJUS). We can expect these eventually to improve quantitative measurements. The full roll-out of BOSZ, to be completed for both the police and the Public Prosecution Service in 2015, can be expected to map out the interface between the police and the Public Prosecution Service more accurately. Eventually it may be possible to include the detection phase in the system-wide analysis. In addition, the general improvement of information management in the system offers reference points to quantify return flows better. This will make it possible to measure the nature and scale of the output from the criminal case system better and more reliably.