

Summaries

Justitiële verkenningen (Judicial explorations) is published eight times a year by the Research and Documentation Centre of the Dutch Ministry of Justice in cooperation with Boom Juridische uitgevers. Each issue focuses on a central theme related to judicial policy. The section Summaries contains abstracts of the internationally most relevant articles of each issue. The central theme of this issue (nr. 2, 2009) is *The Institution for Persistent Offenders*.

Persistent offenders back to square one? The ISD in retrospect

M. van Ooyen-Houben and M. Goderie

The Act introducing the Institution for Persistent Offenders Committal Order (ISD Order) took effect on 1 October 2004. The origins of the ISD Order are in safety policy. The order had a strong focus on imprisonment of persistent offenders. It can be seen as an exponent of the risk-oriented attitude towards safety, which has been predominant in recent years. At the start treatment of persistent offenders was of secondary importance and was only available for those who were motivated. But the ISD measure has had to deal with major problems in practice. The imprisoned ISD population proved to be one with complex problems like addiction, psychiatric illnesses and sometimes low intellectual abilities. The ISD institutions are ill-equipped for handling these people. The problems led to a slightly different attitude which is more oriented towards resocialization. Improvements are going on now, a process facilitated by a considerably improved co-operation between agencies around the ISD.

Does the SOV/ISD measure pay off? A tentative evaluation

B.C.J. van Velthoven and D.E.G. Moolenaar

The introduction in the Netherlands of the SOV measure in 2001, followed by the ISD Order in 2004, opened the opportunity for the courts to incarcerate systematic offenders, mostly addicts, for a period of two years. During the period of imprisonment convicted are offered various programs to kick their habits and tackle their other problems. The article assesses the social costs and benefits of the SOV/ISD measure. The analysis takes account of the

improvement in general health and productivity of the participants, and models the crime reduction effects through special prevention, incapacitation and general deterrence. Substituting results from the first effectiveness study of the SOV program, which by the way only covers one follow-up year, it is calculated that the SOV/ISD measure may yield a positive net result of as much as € 4 million per participant.

The ISD-measure in a legal history perspective

S. Struijk

This article focuses on the current measure for persistent offenders (ISD-measure), by taking into account three equivalent penal sanctions that have been developed in the Netherlands from 1886 onwards. First, the penalty of a labour colony for vagrants and the like for three years at most. Second, the measure to keep the habitual offenders in additional, preventive custody for five to ten years. Finally, the measure of two-year detention for drug addicted offenders. In the article it is argued that in spite of the differences in (judicial) elaboration, all three former existing sanctions have the same legitimating fundamental principle as the ISD-measure. That is, the notion that certain offenders are a danger to society, due to their persistent criminality and nuisance causing lifestyle. The primary objective of all these penal sanctions is therefore a long term protection of society from this danger. In this sense, the ISD-measure makes clear that present state-policy is above all one of sheer deprivation of freedom.

Castaways of society?

M. Weevers and C. Bijleveld

In the nineteenth century in the Netherlands, tramps and beggars were sent to Veenhuizen to work there as a form of punishment and rehabilitation. To investigate the background of these banished men, the authors drew a systematic 5% sample out of 6.000 men who were banished between 1896-1901. Using information from the so-called 'signalements'-cards that were compiled, the authors found that the Veenhuizen men were not uneducated, unskilled workers, but on the contrary, often had some kind of (semi-)skilled profession. Many did not have a permanent abode, and only a few had (ever) been married. At on average 45 years of age, the Veenhuizen convicts were old for the era they lived in. As such

these men lacked and had probably at some point in their lives lost societal as well as social ties, and had gone adrift.

Recidivism was high. While the Veenhuizen measure may have been effective in delivering society from the blemishes that these men represented, but in general it didn't turn these men into fully participating citizens.

Between hope and fear; ISD detainees interviewed

G. Beijers and L. Rutjens

The authors report on a content analysis of semi-structured interviews with twenty-two offenders who had been placed under a special measure in an Institution for Persistent Offenders (ISD). While the sample cannot be considered representative for all ISD offenders, the majority consider the ISD measure useful, mainly for utilitarian reasons. Most offenders want to break with their old life. Prominent in their reports is the relevance attached to proper housing arrangements. Those placed in wards with regular detainees where (hard) drugs are reportedly easily available, regard ISD as less useful.

In the eyes of the judge; legal considerations concerning the ISD Order

K.D. Lünemann

The primary objective of the ISD Order is to reduce public nuisance caused by extremely persistent offenders. Another objective is to reduce recidivism. Recidivism can be prevented by influencing behaviour, with due regard to any personal issues involved. In this article the author looks at the arguments the judiciary uses to impose or end an ISD Order. The author notices that the judiciary views ISD Orders as a last resort: an order is given only in the absence of alternatives, and with the requirement attached that ISD subjects are to be put on a programme. The judiciary considers rehabilitation within an ISD framework to be extremely important. The orders are almost invariably imposed for two years, with no deduction of the pretrial detention period. There is reason to terminate the order if the recidivism risk has receded, but there may be other termination grounds, outside the control of the ISD subject, such as negligence on the part of a government agency.