

Chapter 22

Netherlands

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1 HISTORIAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM¹

1.1 The start of probation in the Netherlands

The Dutch Probation Service celebrated its 175th anniversary in 1998. Throughout its history, it has comprised of one or more independent, private organizations. During its first century, there was no formal relationship with the government. From a voluntary initiative based on charity, it has developed into a highly professional system, with a strong tendency towards centralization in the latter years. The emphasis in its activities has changed, mostly in the last thirty years, from an exclusive focus on the offender to a much stronger emphasis on the organization's role in society and its relationship to the judicial authorities. In addition, it has also become clear over the past five years that the Probation Service can play an important part in reducing recidivism by focusing on the offence in its contact with the offenders, identifying the criminogenic factors, and by means of an intervention approach that focuses on these factors systematically.

The Service was founded in 1823, under the name "Society for the Moral Improvement of Prisoners" (Genootschap tot zedelijke verbetering der gevangenen). The founders were three merchants, who were strongly inspired by the example John Howard set in England. In the early years, the Society's work consisted mainly of visiting prisoners and handing out reading matter. The aim was to influence offenders, for example by providing education and religious guidance, so that they would refrain from further criminal activity. Private citizens who were dedicated to the same idealistic approach provided the financial means. The work was done on a voluntary basis.

1.2 Important developments

From 1910 onwards, after the introduction of the suspended sentence with probation, the Government started to participate formally in subsidizing the activities of the Society. A special section in Dutch law was devoted to the relationship between State and probation organizations: the first Probation Act (Reclasseringsregeling) came into being. In the meantime, a number of other organizations had been formed, directed towards such issues as the care of the poor, the battle against alcohol, and the creation of jobs for sentenced offenders. In 1912, a special section of the Salvation Army dealing with probation work was officially recognized.

As early as 1913, a number of the organizations doing probation-related work on a national level started to co-operate, and came together to form the Society of Probation Services (Vereniging van Reclasseringsinstellingen). In later years, the Society was joined by several organizations which were founded after 1913. These

¹ This text is a completely revised and highly updated version of the chapter of the same name by Gerhard Ploeg and Anton van Kalmthout from 2005. Official documents from the Probation institutions, the Ministry of Justice and the Public Prosecution Service were used in this update.

included the Catholic Probation Society (1916), the Dr. Meyers Society for the Criminally Insane (1924), and the Protestant Christian Probation Service (1928).

The different organizations still functioned largely through the work of volunteers. After the Second World War, however, new thinking in penology and scientific insights into criminology, psychiatry and psychology led to an increasing emphasis on professionalism in probation work, among other things. In the Probation Act of 1947, therefore, the Government demanded that probation officers be trained professionally as social workers.

In 1986, 1995 and 2004, there were major reorganizations. The last one, in 2004, gave the Ministry of Justice a more coordinating and controlling function. The ministry's so-called commissioning practice is also a clear indication of this. This commissioning practice means that the Probation Service may only perform its duties (that is, may only supply products) when commissioned by the institutions that purchase those products: the judiciary, the Public Prosecution Service (Openbaar Ministerie) and the Custodial Institutions Service (Dienst Justitiële Inrichtingen). The reason for this is that the Probation Service should not have any influence on or control of the demand as well as the supply of its products. The Probation Service must be prevented from generating the demand for its own products. Outside of the judicial framework, the Probation Service also performs activities on a contract basis for municipal governments.

Over the years, the aims and tasks of the Probation Service have always been strongly discussed inside and outside the probation organizations. The Service's aim during the past few years has been to make demonstrable contributions to a safer society. One objective derived from that is the reduction of recidivism: the interventions by the Probation Service change the offender so that he no longer wants to reoffend (Poort and Eppink, 2008).

There was a period when the Ministry of Justice adopted a critical approach towards the Probation Service. This was because many people felt the Probation Service too often chose the position of supporter of the offender and paid particular attention to his point of view in the social enquiry reports. The self-appointed autonomy of the probation officer as a professional was also criticized. Today, positive recognition by the chain partners (judiciary, Public Prosecution Service, and penitentiary institutions) is clearly visible as the Service cooperates closely with these chain partners, is receptive to their needs and adheres to agreements made. In the work with the offenders, the Service concentrates on the offence, criminogenic factors and the question of how recidivism can be prevented in the best way possible. Furthermore, available protocols and the quality control performed in each unit by the quality officer (work counsellor; "werkbegeleider") support the professionalism of the probation officer. The number of probation activities has been increased considerably, the Probation Service works with a larger group of serious offenders, the number of labour penalties (werkstraffen) has grown tremendously and the organization of the activities has become more professional. The prestige of the Service has clearly improved.

1.3 Probation activities in a nutshell

The Probation Service performs the following tasks:

- diagnosis and advice;
- supervision (toezicht) of conditional sanction modalities (for example, the suspended prison sentence, suspension of pre-trial detention under conditions and detention under hospital orders with conditions);
- performing behavioural interventions (gedragsinterventies);
- performing task penalties, in particular labour penalties.

The Probation Service can only perform probation activities as commissioned by the judicial authorities: the Public Prosecution Service, the judiciary and the prison system. There has to be a judicial basis for the Probation Service to be able to get to work. That means that no "voluntary contact" with detainees occurs. Two other striking aspects are, firstly, that the Probation Service does not supervise (remand) detainees. There is contact with detainees, but within the framework of the diagnosis and advice task: writing a social enquiry report as part of the trial, or advising the directors of the penal institutions about the detention plan, including the conditional release. And secondly, ex-detainees are not supervised by the Probation Service, unless this is within the framework of the Penitentiary Programme (penitentiair programma) (but in that case, detention is still continuing) or for the conditional release if special conditions have been imposed; the Probation Service then supervises compliance with those conditions.

Historically, the core tasks of probation as performed by the three probation organizations (see 3.1) have emerged as the preparation of social reports, and the provision of support and assistance to offenders. In the course of the last two decades, the emphasis has gradually shifted away from concepts of help and care to those of supervision and control. This has made the Probation Service gradually change from an aid organization to a "criminal justice organization". At the same time, the Probation Service is increasingly becoming a partner on an equal footing with the other organizations in the criminal justice chain. It has remained an independent organization that performs activities for judicial commissioning authorities, but at the same time, it has become an organization that performs its work from the perspective of its role in the criminal justice chain (see Poort & Eppink).

2 LEGISLATIVE BASIS AND MISSION

2.1 Legislative basis

The probation activities are carried out by several private foundations. While they receive all their funding from the Ministry of Justice, they are organizations in their own right, with their own management structures and their own Boards. All legal provisions relevant to foundations under Dutch law apply likewise to the Probation Service. Probation organizations in the Netherlands need to be formally recognized as such by the Ministry of Justice. Recognition is granted when the organization in question has declared itself willing to bear responsibility for carrying out the work defined by the statutory authorities.

The legislative basis for the Dutch Probation Service is in the 1995 Probation and After-Care Order (Reclasseringsregeling) as well as in a number of passages in the laws dealing with specific sanctions involving the Probation Service.² The most important of these are the articles in the Dutch Penal Code referring to the task penalty. This is now a principal penalty, included in the Penal Code. A task penalty can consist of a labour penalty (werkstraf), comparable with the Community Service Order in other countries, a learning penalty (leerstraf), or a combination of the two. The learning penalty consists of the obligation to attend some training programmes. Other important articles in the Penal Code are the articles referring to the conditional sentence, the out-patient and in-patient hospital order and the confinement of persistent offenders. A number of references concerning social enquiry reports and other Probation Service tasks can also be found in the Code of Criminal Procedure.

The Probation and After-Care Order specifies that the probation institutions recognized by the Minister of Justice are responsible for the execution. It also specifies who may perform probation activities, what the statutory probation tasks are, the subsidizing of the probation, the complaints procedure and the supervision of the probation (by the Implementation of Sanctions Inspectorate).³

The Probation Act outlines, among other things, which activities the Probation Service will engage in, and the accompanying financial requirements. Probation can be used with any offender, regardless of the offence they are suspected of having committed, or for which they have been convicted.

The Probation Service as described in this chapter mainly focuses on adult offenders. Probation work with offenders under eighteen years of age is carried out by the Child Protection Board. In some cases, offenders between the ages of sixteen and seventeen may be referred to the adult Service. This may happen in the case of particularly serious offences or when the young person in question is a recidivist.

2.2 Mission

² For example, in the Code of Criminal Procedure: article 147 states that the Public Prosecution Service, in the interests of investigation into criminal cases, can call in the assistance of a recognized probation institution and can commission the required tasks of this institution (producing a social enquiry report). Other provisions about making a social enquiry report include articles 177 and 310 of the Code of Criminal Procedure, in which the same power is assigned to the examining magistrate or the judge. In the Criminal Code, for instance article 14d about the suspended sentence states that the judge can commission a probation institution to provide help and support to the convicted person in complying with the conditions. The Custodial Institutions Act and the Hospital Orders (Care). Regulations can also be mentioned. The Labour Penalties Decree controls how the task penalties are performed.

³ The rules about the enforcement of probation activities and the subsidizing have now been specified in greater detail in the Implementation Regulations 2005 (*Uitvoeringsregeling 2005*) (a Ministerial regulation). It controls the requirements that probation officers must meet (the requirements of appointment) and the swearing-in of probation officers. It also contains more precise rules about the granting of subsidies, the assessment of subsidies and the administrative instructions.

The Probation Service works on social safety by contributing to the effective and efficient implementation of sanctions and the reduction of the risk of offenders re-offending. To that aim, the Probation Service has resources at its disposal that are used at different moments of the criminal justice process:

- advice about accused persons and offenders for the purpose of the effective and efficient implementation of sanctions, and the effective and efficient enforcement of the sanction. In all cases, the work of the Probation Service focuses on the risk of recidivism and any individual or social damage associated with it, and on a long-lasting reintegration of the accused or offender in society. A recommendation is always based on a screening or diagnosis;
- interventions for behavioural change of accused persons and offenders, in the form of accredited behavioural courses. The behavioural courses and training sessions are held in prisons and in the framework of probation supervision;
- supervision of accused persons and offenders in the scope of conditional sanctions and the extramural execution of sanctions. The sanction forms the compulsory framework within which the Probation Service can work on behavioural change and risk management. Many offenders are not motivated beforehand to work on changing their behaviour. For the Probation Service, the judicial framework functions as an essential deterrent for getting to work with perpetrators so that they can take up a fulfilling position in society. Supervision is always a combination of guidance, checking and case management. Its proportion and intensity are determined individually on the basis of the diagnosis;
- guiding accused persons or offenders whose delinquent behaviour is connected to addiction or psychiatric problems, to care institutions and therapists. If diagnostics indicate treatment is required, the Probation Service ensures that the treatment does in fact start;
- implementing task penalties, in particular labour penalties. The advantage of administration by the Probation Service is that guidance can be offered to prevent recidivism if necessary.

These resources are put to use in the form of products purchased by (judicial) commissioning authorities.

2.2.1 Care/treatment

Delinquent behaviour and preventing its repetition form the central scope of the Probation Service. This is a judicial task. That is why the Probation Service concentrates on criminogenic factors, that is, problems that lie at the bottom of the delinquent behaviour. However, not all problems are criminogenic. In many cases, a complex of factors is involved that results in an integrated approach being desirable. One example that could be mentioned is (addicted) persistent offenders. In increasingly more cases, it is emerging that mental limitations in combination with other problems result in a lifestyle that includes criminal behaviour. In those cases, there is often already involvement by a Mental Healthcare institution. The added value of the Probation Service in those cases is the attempt to proceed further with the existing process, with the judicial

deterrent available as extra motivation. Improving the situation of an individual client contributes to the reduction of nuisance or recidivism in these groups of people subject to certain jurisdiction. This is important for social safety.

2.2.2 Positioning

The tasks of the Probation Service are closely intertwined with the criminal justice process. The Probation Service is active in every phase of the criminal justice process, from arrest to enforcement. There are three organizations that carry out probation tasks: the Dutch Probation Service (Reclassering Nederland), the Social Rehabilitation for Addicted Offenders (Stichting Verslavingsreclassering or SvG), and the Salvation Army Probation Service (Leger des Heils Reclassering). The SvG and the Salvation Army are embedded in a larger organization whose objective is broader. This gives these probation organizations their own approach in giving substance to the probation tasks. The Dutch Probation Service's mission emphasizes reintegration of the offender, which results in the reduction of recidivism and the improvement of safety for society. The SvG adheres to the basic principle that only an integrated approach by the care and justice sectors to addicted offenders will result in the correct approach and supervision. For the Salvation Army, it is the client as a person who is at the centre of attention, as well as the preservation or repair of relationships so that a person can return from the fringe of society and participate fully again in the community. The probation organizations are investigating to an increasing extent the possibilities of fulfilling a role on a municipal level in public safety and the prevention of social nuisance without a judicial basis having to be involved.

2.3 Crime prevention

The core of the work of the Dutch Probation Service is the prevention of recidivism of known offenders. As such, tertiary prevention is the aim of the Probation Service. The Service does not consider active involvement in primary or secondary crime prevention as part of its job. Nevertheless, regional and local probation units participate in the local Justice Boards, aimed at developing and implementing a strategic vision and action plan for the prevention of crime and re-offending. Part of this vision and plan is the formation of partnerships in the wider community (other statutory organizations, police, municipalities, and neighbourhoods). The Probation Service does not take a leading role in prevention projects on the secondary and primary levels. Targeting domestic violence has been a major spearhead of the joint judicial organizations at the regional level. The Probation Service plays an important role here aimed at stopping the violence, and changing the beliefs and attitudes of the perpetrator. Where necessary, the probation officer monitors the behaviour of the offender, together with the police.

2.4 Victim protection

The Probation Service in the Netherlands is not responsible for providing services for victims. The care for victims is provided by Victim Support Netherlands (Stichting Slachtofferhulp Nederland). This organization works with volunteers. They visit victims of crime – if desired – and offer help in finding possibilities for compensation, both material and immaterial. The police, the Public Prosecution Service and the Probation Service often refer to Victim Support. There is no formal cooperation with the Probation Service in the Netherlands.

Increasingly more attention is being paid to the position of the victim in criminal proceedings. The Minister of Justice has commissioned two investigations on the basis of which he has decided in the first instance to offer victims and young offenders the possibility of mediation interviews (see letter to parliament dated 18 August 2006). The execution of the mediations will be organized by an independent authority. This possibility will also be made available to adult offenders at a later stage.

3 THE ORGANIZATION OF PROBATION SERVICES

3.1 Main characteristics

In the Netherlands, probation tasks are carried out by three organizations:

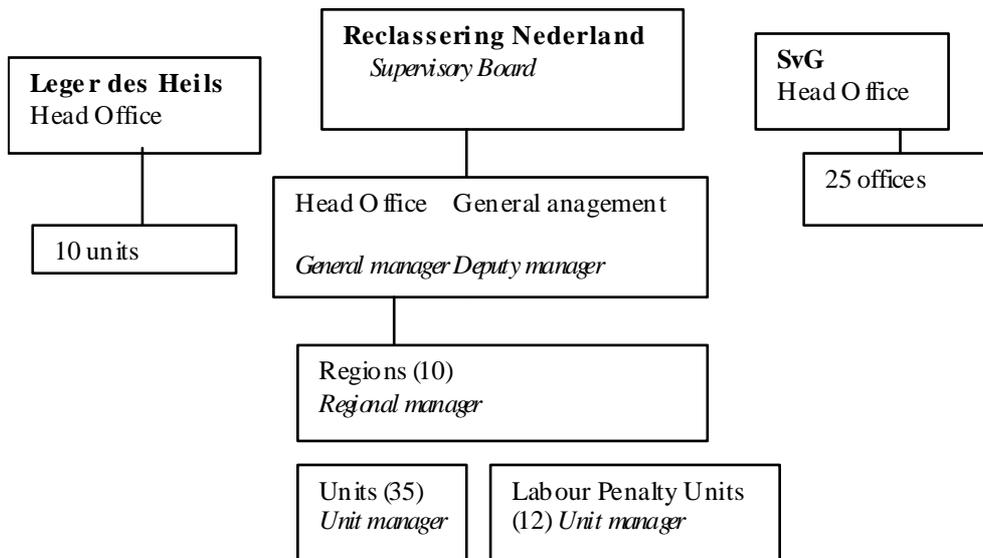
- the Probation Department of the Salvation Army. The Salvation Army is, of course, an organization that does much more than dealing with offenders. However, it has a special branch focusing on probation work, and has defined a number of specific target groups. The most important of these groups are probation clients who are homeless and juveniles in multi-problem situations. This branch receives around 8% of the overall budget. The total number of full-time jobs at the start of 2007 was about 220.
- the Social Rehabilitation for Addicted Offenders (Stichting Verslavingsreclassering or SvG). This probation organization is also part of a larger body. The Social Rehabilitation for Addicted Offenders consists of a large number of organizations that perform tasks in the field of public mental health, and particularly with people with various addictions. In its probation work, this organization targets this type of delinquent. Central in the definition of their client group is that a direct relationship must have been established between the client's dependency on, or addiction to alcohol, drugs or other substances, and the offence committed. Eleven branch offices deal with probation work, receiving around 28% of the overall budget. The total number of full-time jobs at the start of 2007 was about 450.
- the Dutch Probation Foundation (Reclassering Nederland or RN). This is the largest of the three probation organizations. It has no specifically defined target groups that can be distinguished from those of the Salvation Army or the GGZ Nederland. It receives 63% of the budget. As a rule, however, those clients with serious psychiatric problems are referred to the SRN. Apart from the Main Office, there are 10 regions, each with its own regional manager and regional office, 36 local field offices called units and 12 special Labour Penalty

Units. ⁴The total number of full-time jobs at the start of 2007 was about 1,500. “Reclassering Nederland” is supervised by its Supervisory Board, consisting of representatives from several sections of society, such as the judiciary, social work, legal and social science. The general manager and his deputy handle the day-to-day running of all affairs concerning the foundation. They take almost all the vital decisions concerning the foundation.

⁴ The number of offices amount to 25 (some regional and local offices are housed in the same building).

3.2 Internal organization

Organization chart of the three probation organizations



The Main Office of **Reclassering Nederland** focuses on central administrative support, such as personnel management, salary administration and staff training. The office also houses the department for policy development and public relations. Its main function is to advise the general manager and the ten regional managers. The 10 regional offices operate in one or two of the areas defined by the jurisdiction of the nineteen District Courts. Each of the regional offices of **Reclassering Nederland** is led by a regional manager, and has its own policy workers and administrative organization. The units are based geographically on Police regions and are led by a unit manager. Several units can be operating in the same Police region, and a larger number of them operate in the area of each one of the nineteen District Court districts, sharing an administrative organization at that level. The unit managers in this kind of district are responsible for their own unit, and administer specific policy areas for the whole district. The same applies to the regional managers on a national level: they are responsible for certain "portfolios". In 2000 the 12 so-called Labour Penalty Units (*Werkstrafunits*) were developed, that are responsible for the organization, preparation, enforcement and evaluation of the labour penalty.

The probation departments of the Salvation Army and SVG have their own management structures within their larger organization. These managers participate at the highest level in meetings of the management team, but there are also formal contacts at regional and local levels. The two organizations have policy departments only at a national level. The Salvation Army Probation Department has two district managers, and a unit manager for every working unit. SVG actually consists of some fifty offices, sixteen of them dealing with

probation work. Each of these offices has its own management, and the offices co-operate through the SVG organization.

Unit managers are bound by the policies made within the framework of the overall organization, for instance those concerning output targets, working methods and staff management. However, they do enjoy a certain degree of freedom in developing local networks with community-based organizations and the judicial authorities in their own region. In 2006, a different organizational set-up of the probation activities was decided on:

- a Probation Counter (reclasseringsbalie) was set up in each district, consisting of an office in the buildings of the Public Prosecution Service. The Public Prosecutor, judiciary and prison system submit applications for the development of probation activities for certain persons to these offices. The Probation Counter registers the application and checks whether the person has already been in touch with one of the three probation organizations in the past. An investigation based on the suspected offence and file determines which of the probation organizations will be appointed to deal with the case. The allocation will be based on the problems of the offender and the scope (the executive capacity) of the separate probation organizations. This creates a distribution mechanism for transparent allocation to the three probation organizations. It was a deliberate decision to place the Probation Counter in the building of the Public Prosecution Service. This location enables access to the physical and electronic files, which are held at the Public Prosecution Service. Moreover, it makes it easier for the Probation representatives, Public Prosecutors and examining judges to establish formal and informal work contacts. The necessity and desirability of probation activities can be discussed and a good selection made with regard to which offenders should be offered probation activities and which should not. The capacity of the Service is limited and good selection is therefore relevant. At the Probation Counter, the activities mainly have the character of a first intake so a decision can be made whether probation activities need to be performed (pre-trial or pre-sentence report, offer of a labour penalty in the form of a transaction) and which ones, and which probation organization will arrange these activities;
- besides the specialized Labour Penalty Units, the probation officers are charged with either the task of making social enquiry reports or supervision. If the organization is large enough, separate units for counselling and monitoring are set up. There are two reasons to specialize this way. In the first place, the activities have become more complex. More and more methodical instruments are being used to make a good diagnosis. Also, supervision is becoming a field in its own right, just like offering training programmes to offenders. These activities require separate in-service education, experience and routines, which can only be obtained by creating separate units. A second reason for specialization was the wish of the Ministry of Justice to avoid the semblance of probation officers becoming commissioning authorities for their own activities. They make recommendations in the social enquiry reports on further activities, which will subsequently be performed by themselves. The introduction of this change to the organization was received with criticism by the probation officers. They feared a reduction of their work. By now, there

are fewer critical comments. One factor that has played a role in this respect is the fact that probation officers do not work at the same unit during their whole career at the Service. After several years, the probation officer is transferred to another specialization.

3.2.1 Probation officers

Probation officers work together in a unit with about 24 15 full-time employees (for the so-called Labour Penalty units the number is 34). A unit manager is responsible for running the unit. A work supervisor also works in the unit: the quality officer. His task is to monitor the quality of the primary process and test it. He performs this work with respect to the substance and procedures, and is particularly alert to any risk factors present. He also provides professional supervision for the employees. The following can be said about the case load. The probation officers occupied with the diagnosis and advice task work on 12 social enquiry reports (comprehensive diagnoses and reports) and 5 recommendation reports (less comprehensive diagnoses and shorter reports) on average at the same time. The employees who perform the task of supervision have an average of 24 offenders under their care. The employees of the Labour Penalty Unit (except for the supervisors of the group projects) usually work with 85 offenders (preparation, implementation and reporting on the completion of the labour penalty).⁵

3.2.2 Education and training requirements

All probation officers in the Netherlands are professionals, in that they have received an education in social case work at a higher educational level. The probation organizations have elaborate programmes for in-service training of their officers. The SVG employees always receive additional training in dealing with clients with addictions.

3.2.3 Other organizations involved in probation work

Besides the probation organizations, there are five smaller, private organizations that perform specific tasks aimed at the reception and supervision of offenders. They are shelters where offenders stay for a certain time and follow the instructions of the staff. Offenders can be placed in these facilities if the pre-trial detention is suspended or for the last part of their prison sentence (in a so-called Penitentiary Programme). These facilities concentrate on offering temporary accommodation, instilling a daily routine, supervising the offender in work or training, working on relationships and thinking about a meaningful place in society. Referrers can be the prison system or the Probation Service. In 2007, 127 persons were placed in these facilities. The subsidy from the Ministry of Justice was €6 million. A number of these institutions can also supervise ex-detainees after completion of their detention period, and offer them temporary accommodation. This meets a clear need now that the probation institutions no longer have the possibility of offering after-care. Several years ago, the Minister of Justice took the position that after the punishment had come to an end, there

⁵ Source: Operations Department of the National Office of Reclassering Nederland. It is difficult to compare international figures on case loads if no information is known about the intensity of the contacts, the severity of the offenders, the duration of the involvement, and the completion times.

was no longer any “judicial basis” for Justice (and therefore probation organizations) to continue to perform activities with respect to these ex-detainees. These persons are to be regarded, in principle, as normal citizens who should be able to rely on the customary social facilities available to all citizens. However, this abrupt change in direction did not reduce the seriousness of the problems of ex-detainees and stimulated a number of organizations – mainly Christian – to take the initiative and provide this relief in emergency situations.

3.2.4 The international Office of the Dutch Probation Service⁶

More and more Dutch citizens are being imprisoned abroad. Whereas there were about 1,000 Dutch detainees in foreign countries in 1992, by the end of 2000, eight years later, this number had almost doubled. In 2007, there were more than 2,600 Dutch nationals detained abroad. The vast majority of these people were arrested for the possession or smuggling of drugs. In addition to its tasks in the Netherlands, the Dutch Probation Service is also involved in dealing with Dutch citizens detained abroad. These people experience particular difficulties; far away from family and friends, they are often forced to survive in a foreign culture, in a foreign area, facing an unknown legal system.

3.2.4.1 History

Since 1975, the International Office of the Dutch Probation Service in Utrecht has been responsible for international probation activities. It started as an experiment with a temporary coordination unit. As the number of Dutch nationals imprisoned abroad slowly grew, so did the unit. In 1997, after some incidents involving the treatment of Dutch nationals in foreign prisons, the Minister of Foreign Affairs decided to intensify the guidance of Dutch nationals imprisoned abroad. The International Office of Reclassering Nederland expanded and was given financial support for part of its activities from the Ministry of Foreign Affairs. Against this background, the unit has established good working contacts with the Ministries of Foreign Affairs and Justice, and with a range of aid organisations.

3.2.4.2 Profile of Dutch nationals detained abroad

In the year 2007, 2,627 Dutch nationals were detained abroad. That population displays a number of characteristics:

- 80% have been prosecuted or convicted for drug smuggling;
- 15% are female;
- 60% are detained in another EU member state;
- 55% have been detained for more than one year;
- 60% do not come originally from the Netherlands;

⁶ For more information, see: Streng, R., Swennenhuis, R., Kooten, H. van, *Foreign Liaison Office of the Dutch Probation Service*, in: *Foreigners in European Prisons, Volume 2*, Chapter 29, Edited by Kalmthout, A.M. van, Hofstee-van der Meulen, F.B.A.M., Dunkel, F.; Nijmegen, 2007

- 25% have difficulties in reading or writing Dutch;
- 60% do not have any vocational education or diploma;
- 50% did not have a job prior to detention.

The average number of detainees abroad in 2007 was 2,650. The turnover rate is very high. In 2007, 1,005 Dutch nationals were arrested abroad and 974 were released.

Table 1: Top 10 countries for Dutch nationals detained abroad in 2007

	Number of detainees		Number of detainees
Germany	452	United States	132
Spain	245	Belgium	92
France	226	Portugal	85
United Kingdom	165	Peru	85
Dominican Republic	157	Brazil	78

The majority (80%) of the detainees are imprisoned because of crimes related to drug smuggling. The sentences imposed for these crimes in other countries, including other EU member states, are relatively higher than in the Netherlands. Therefore, on average, the sentences imposed on Dutch detainees abroad are relatively higher than those for detainees in the Netherlands.

3.2.4.3 Products and services

In the first instance, the authorities of the country where the Dutch citizen is being held bear responsibility for the welfare of the detainee. The Dutch Ministry of Foreign Affairs promotes the interests of detained citizens abroad. The guiding principle for the work of the International Office of Reclustering Nederland is the return of the Dutch citizen to the Netherlands. Shortly after the Dutch national's arrest, the embassy or consulate informs the Dutch national of the possibility of contacting the Dutch Probation Service. The detainee can then complete a form, indicating what services he or she would like to request from the Probation Service. The International Office subsequently decides on the action to be taken:

- Delivering a social enquiry report.
In criminal cases abroad, reports sometimes have a role to play in court, or in decisions about whether part of a prison sentence may or may not be served in the Netherlands.
- Counselling and guidance during imprisonment.
The International Office prepares a plan of action for the individual detainees. Problems in various fields, such as work, housing and debts are assessed. An important goal thereby is to limit the damage that imprisonment inflicts on the detainee. Elements include informing debtors and landlords, and arranging temporary custody for small children. A further goal of the plan of action is to prepare for return to the Netherlands. Elements include participation in long-distance learning, and the provision of practical information about returning to the Netherlands. Regular and good contact with Dutch nationals in foreign prisons is not always easy. The International Office therefore makes use of a network of 283 Dutch volunteers living abroad who visit the detainees on a regular basis. They are the "eyes and ears" of the Dutch Probation Service. 170 volunteers are based in EU countries. They

make up almost 60% of the total number of volunteers; this coincides with the proportion of Dutch nationals detained in Europe (60%).

- Preparing after-care.

The International Office contributes to activities preparing for the release of the detainee. A plan of action is drafted on the basis of a diagnosis. Problems related to work, income, debts, housing, health, relations and other matters are assessed, and can be part of the plan of action. When the date of release of the detainee approaches, the plan of action is converted into a plan of return, and subsequently implemented by the International Office.

Table 2: Some figures on products and services of the International Office (2007)

Number of detainees visited by volunteers	1,869
Number of completed and received intake/ assessment reports	876
Number of visits with visit report	7,389
Number of advisory reports	212
Number of social enquiry reports	71

4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS

4.1 General

One of the main goals of the Dutch Probation Service is reducing the risk of re-offending through successful reintegration of the offender into society. Many of the everyday activities of the Service are not specifically laid down in law, as they focus on the provision of help and assistance to the offender in adapting to society's requirements. The ultimate goal, reduction of recidivism, is sought by establishing a relationship between the offender and the society around him or her, in such a way that the offender becomes more committed to "playing by the rules". The Probation Service therefore assists the offender, for example in finding a place to live, finding a job or education, and developing and maintaining social relationships.

Probation as a sanction in its own right is technically not available in the Netherlands, but is similar to the Dutch "Mandatory supervision by the Probation Service" as a special condition of a conditional sentence. Generally speaking, the court can sentence an offender to conditional imprisonment, which can also be combined with a period of unconditional imprisonment. The general condition states that the offender might have to serve the relevant period of time if they are caught re-offending, in addition to the punishment which will be imposed for the new offences. The general condition applies for a specific period of time, generally known as the probationary period. As part of the conditional sentence, there can be any number of additional special conditions, breach of which can lead to imprisonment for the relevant period of time. These conditions vary

widely. It can be the obligation to follow a course or programme (for example, the behavioural intervention), a prohibition on entering certain locations (for example, to protect the victims), compensation of the victim, or the obligation to undergo treatment. The Probation Service has the task of supporting the offender in complying with these conditions and supervising whether the conditions are indeed complied with. Often, an extra condition is imposed to make this clear to the offender, namely that he must report at regular intervals to the probation officer and follow that officer's instructions during a certain period. In many countries, this would be described by the word "probation"; we will describe it as "supervision". It will involve a minimum amount of regular face-to-face contact, and preferably participation in one or more programmes. The supervision period can never exceed the probationary period stated in the sentence. Apart from this or any other special conditions involving the Probation Service, the court can impose a task penalty, to be carried out under the supervision of the Probation Service.

A number of the conditions mentioned above can also be attached to decisions that are not taken by the judge by judgment after trial. The pre-trial detention can, for instance, be suspended conditionally by a court, or the Public Prosecutor can conditionally dismiss the case. Conditions can be attached to these decisions, comparable with those that the judge can attach to a suspended sentence. The Public Prosecutor can also attach task penalties to his decision to dismiss a case conditionally.

Table 3: Activities of the Probation Service during the different stages of criminal procedure

	Pre-trial phase See: 4.2	Trial and enforcement phase See: 4.3	Post-release phase See: 4.4
Preparing a social enquiry report/ recommendation request	x	x	x
Early help/ intervention (during the period of arrest at the police station)	x		
Supervision/ assistance to pre-trial detainees	x		
Supervision/ assistance etc. to offenders whose cases are conditionally waived	x		
Supervision/ assistance to offenders whose pre-trial detention has been conditionally suspended	x		
Supervising/ organizing etc. community service	x	x	
Supervising/ organizing training or learning projects	x	x	
Supervising etc. drug/ alcohol treatment programmes	x	x	
Pre-sentence report	x	x	
Supervising etc. suspended sentence	x	x	
Supervising etc. mentally ill or retarded offenders (in-out patient orders)		x	x
Supervising etc. special measures for drug addicts	x	x	x
Supervising etc. conditional release/ parole			x
Advisory report with respect to amnesty/ pardon		x	x
Assistance/ support to persons who are granted amnesty/ pardon			x
Supervising a custody probation order		x	

4.1.2 Procedures and methods

To understand the peculiarities of the Dutch Probation Service properly, a rough outline is given below of the methodological approach followed during the activities of the entire criminal proceedings, and which procedures apply to it. This will make it unnecessary to continually repeat the different activities, procedures and methods with the description of the activities in the different phases of the criminal proceedings.

4.1.2.1 Methodological approach: working in a compulsory legal framework

Over the past few years, the Probation Service has developed a probation methodology: working in a compulsory legal framework. The following elements are the most important:

- the offender is responsible for his own acts; he can change his behaviour, and he can decide to stop perpetrating offences. The Probation Service is oriented towards the future: together with the offender, the Probation Service looks for conditions for positive new behaviour of the offender. The past of the offender is important, but from the viewpoint of which risks can be present in the future;
- the offender can and must be motivated to change his behaviour. The probation officer tries to tap into that motivation for behavioural change, and to support it;
- the judicial deterrent is used methodically as a motivating factor: it is made clear to the offender that non-cooperation with the Probation Service can have negative consequences for him. If the labour penalty is not performed properly, the Probation Service will report to the Public Prosecutor, who can decide that the offender must serve his prison sentence after all. If the special conditions of the suspended sentence or the conditional release are not met, the judicial authorities can decide, on the basis of the recommendation from the Probation Service, to enforce the conditional part of the prison sentence for the offender after all.

4.1.2.2 Diagnosis and advice

In the diagnosis and advice task, the Probation Service gives an estimation of the risk of recidivism, the risk of danger, what the criminogenic factors are, and what the offender's level of motivation for behavioural change and responsiveness is. This forms the basis for the Probation Service to give a recommendation on whether further probation activities are necessary (behavioural interventions, guidance and supervision), and whether treatment is indicated. If further activities are recommended, which special conditions must be imposed on the offender? If a conditional sentence or conditional release is under consideration, the Probation Service also makes clear how the supervision will be arranged, what the contact frequency will be, and how the check will be implemented (possibly with electronic equipment). If the Public Prosecutor or the judge is considering a labour penalty or learning penalty, the Probation Service gives a recommendation about the possible contra-indications for the labour penalty or learning penalty (Is this offender expected to complete the penalty? Can a suitable workplace be found for him – given the structure of his personality and the possible risk to others?).

A Probation Service recommendation revolves around three questions:

- is there a risk of repetition of the delinquent behaviour, and if so, which interventions in the area of influencing behaviour and risk management can reduce this risk?
- what does this mean for the interpretation and enforceability of the pre-trial detention or sanction?
- are there particular personal characteristics or circumstances that should be taken into consideration when the sanction is imposed, in the sense of enforceability or undesired effects?

Formulating a punishment requirement in relation to the offence committed is a task of the Public Prosecution Service. The Probation Service will discuss this in its recommendations, but only from the perspective of the Probation Service:

- in the event the Probation Service recommends a conditional sanction on the basis of necessary interventions, or the commissioning authority considers a conditional sanction, the Probation Service advises on the details of special conditions;
- if the Probation Service is responsible for the enforcement of a sanction, it advises on its practicability. This applies to the task penalty and the suspended prison sentence, and to the extramural enforcement of a prison sentence or measure (Penitentiary Programme, trial leave for persons under hospital order and early release);
- and finally, the Probation Service weighs up the degree to which a sanction has possible negative consequences for an accused person/offender, and to what extent it can be enforced practically.

The recommendation is based on a structured screening or diagnosis. For a large part, the various recommendation moments have overlapping objectives and information requirements. This means the different advice requests can each be completed with a limited series of diagnostic tools (QuickScan, RISc, deepening). The same essential question applies to every recommendation moment: "Is there a risk and, if so, what is the risk, and which interventions are required to reduce this risk?" This is related to the risk of recidivism in a general sense, and to the specific characteristics of the delinquent behaviour in order to determine what the individual and social impact of a possible repetition of an offence can be (risk of harm). The complexity of offenders' problems differs. That is why the Probation Service diagnosticians work with different instruments:

- QuickScan: for a brief, fast screening to gain an impression of the risk of recidivism. This is sufficient in the case of low risk and if no behaviour interventions are indicated;
- RISc (basic diagnosis and care assessment): for a standard diagnosis with a care assessment of influencing behaviour and risk management. See the appendix for an explanation of the RISc;
- deepening diagnostics with RISc: for a more comprehensive analysis of a specific factor such as addiction or psychopathology, to enable a better indication of an intervention for the criminogenic factor in question.

4.1.2.2.1 Cooperation and denial

In the investigation phase, the accused person/offender is an important source of information, both through answers to questions and through non-verbal behaviour. During the entire recommendation phase, obtaining the cooperation of an accused person or offender is important for the advice, but also for the subsequent procedure.

The Probation Service provides advice on an accused person or offender if they sign a certificate of “no objection”. The person’s agreement does not apply to the contents of the advice, but to the advice being delivered. The contents of the advice are the opinion of the Probation Service. The accused person or offender can disagree with that opinion on various points. A draft recommendation is discussed with the accused person or offender, if possible before it is delivered. It is also possible for the Probation Service to advise on an accused person or offender without that person’s cooperation. In that case, information from the file forms the basis of the advice.

Many recommendations are delivered in the phase during which a person is suspected of an offence. A considerable proportion (20 to 25%) of the accused persons denies having perpetrated the offence. As long as the accused person has not been found guilty, the Probation Service assumes their innocence. That means that the actual offence is not taken into account in the risk analysis. As a result, a Probation Service recommendation about a suspect who is denying the claims remains limited to a description of the situation and problems.

4.1.2.2.2 Formats

In order to lay down the information obtained and to provide the advice to the judicial authorities, so-called formats are being used increasingly often. Formats are forms that guarantee a consistent structure and treatment of topics. These formats have also been created in consultation with the “commissioning authorities”. An example of a format (the format “Comprehensive advice” is given in annex X.

4.1.2.2.3 Figures

In 2007, the Probation Service delivered 15,935 recommendation reports (short reports) and 16,705 social enquiry reports (comprehensive reports). The diagnosis and advice task represented 20% of the total budget of the probation institutions in 2007.

4.1.2.3 Supervision task

The Probation Service has the legal task of supervising compliance with special conditions for suspended prison sentences, trial leaves, Penitentiary Programmes or other extramural implementations of prison sentences. The activities that the Probation Service performs for that task are called supervision. A more precise definition of probation supervision is the check on compliance with special conditions, notification of imminent violations, and the stimulation and motivation of the convicted person to adhere to the special conditions. Probation

supervision always includes checking and guidance of the person subject to supervision.

The seriousness of the offences that the persons subject to supervision have perpetrated is increasing. Relatively more instances of supervision are being imposed on perpetrators of violent and sexual offences, while the percentage of perpetrators of “more petty” offences like property and traffic offences is dropping. For that reason, the Probation Service has already been working for some time on professionalizing supervision in accordance with the most recent scientific knowledge, as the Service has also done with its other products (diagnosis, behavioural interventions, and labour penalties). The aim is to adapt supervision to the demands of modern times. This improvement in quality is in full swing. Recent incidents involving the execution of supervision have accelerated this process. The key question is how offenders and accused persons can be supervised the most responsibly in the community, based on their risk profiles. It has been resolved that supervision will become more intensive, will be carried out more consistently, and will be more standardized. A new supervision framework has been formulated that will be introduced in the entire country as of 1 April, 2008.

The supervision task of the Probation Service is performed on the basis of the RISc and on the basis of the commission given by the judicial authorities (laid down in the sentence, or the court order for participation in a Penitentiary Programme or conditional release). The intensity of the contact frequency, of the checking and the guidance depends on the risk of recidivism and the risk of damage (“resources follow risk”). Three levels have been formulated for this: from a low risk of recidivism to a medium risk, and to a high risk. Each level involves its own minimum contact frequency and extent to which checking means are used. The probation officer motivates, supports and guides the offender to adhere to the conditions; at the same time, he checks the compliance with the conditions, instructions and agreements. If necessary, attention is paid to practical problems (accommodation and work, for instance). Within the scope of the supervision, the person subject to supervision can also (be obliged to) follow a behavioural intervention. If the conditions are not complied with, the Probation Service will warn the offender, and upon repeated non-compliance will report to the judicial authorities.

The main features of the new implementation framework are as follows. It must also be noted that the overview below is based on the most common situation, that supervision is part of a sanction imposed by the judge. As mentioned earlier, supervision can also arise from the conditions imposed with the suspension of the pre-trial detention or an order from the Public Prosecution Service, to avoid criminal proceedings. The conditional release is also generally accompanied by supervision of compliance with the conditions. By analogy, the framework for assessment described below also applies to these supervision tasks:

1. Preparation

- the probation officer becomes acquainted with the sentence, the record of the court proceedings and the file:
- the RISc and the subsequent risk of recidivism (low, medium, high);

- the recommendation and the care assessment in the social enquiry report;
 - a psychological/psychiatric report.
- 2. Implementation phase**
- At the start of the supervision, the probation officer draws up an agreement⁷. This agreement contains:
 - the special conditions as recorded in the sentence;
 - obligations of the accused person/convicted person (at least: comply with conditions/follow instructions and agreements);
 - the specific objectives the supervision is aimed at so the accused person or convicted person will adhere to the conditions, and the risk of recidivism is reduced;
 - the means to achieve the intended objectives (for example, behaviour interventions or treatment as an outpatient, the points of special interest in the guidance and the aspects of checking);
 - time schedule and contact frequency;
 - specific rules – instructions – the accused person or convicted person must follow; these instructions are connected to the delinquent behaviour;
 - contact frequency and degree of checking are executed according to the risk of recidivism based on the RISC;
 - interview reports;
 - all contacts are registered: all external contacts (including references), internal (multi-disciplinary) consultations;
 - where did the interview take place and which topics were discussed? What kind(s) of impression did the probation officer get? Which follow-up appointments have been made?
 - Evaluations are made regularly. They pay attention to:
 - the implementation, with regard to: offence and criminogenic/risk factors, the sentence, the specific agreements, objectives set and means used, the result achieved;
 - does the action plan and/or the agreement need to be revised? Should a re-diagnosis be performed? Should the accused person/convicted person be classified in a lower or higher “regime” according to the re-diagnosis?
- 3. Procedure for breach of conditions and non-compliance with instructions**
- the probation officer gives an oral reprimand; this is recorded in an interview report;
 - upon repetition, a warning is given; a warning can also be given for inadequate effort on the part of the client;

⁷ Both the offender and the Probation Service sign the Supervision Plan, which becomes a contract between them. This contract does not have formal significance, but is a good methodical instrument to secure the input of the offender, increase his motivation for the activities, and to make it clear to both parties what the agreements are.

- the warning is given in writing and no more than 1 time; with a second warning, the Public Prosecution Service is notified with a recommendation for a demand of execution;
- in exceptional situations (for example, if the probation officer feels directly threatened by the accused person/convicted person), no warning is given, but the Public Prosecution Service is notified directly.

This framework of supervision will be further refined when the results of the Redesign Supervision project are known. This project concentrates on the following aspects:

- the danger criterion (besides the risk of recidivism) is developed and has consequences for the assessment for the levels of checking and guidance;
- the meaning of guidance is defined; and at which level which guidance activity or activities is or are given;
- and finally, there is a specification of which cases use electronic checking and what the assessment is for the various types (voice recognition; GPS: hybrid or passive; radio frequency or tagging).

The results of the Redesign Supervision project will become available early in 2008.

According to the current agreements, the Probation Service is given 30.33 hours per 6 months to perform probation supervision. The probation institutions consider this to be insufficient for the execution of intensive supervision. Discussions are being held with the Ministry of Justice to increase the number of hours significantly.

Figures: in 2007, the Probation Service received 8,842 orders to perform supervision. In that year, 7,244 instances of supervision were completed. On 31 December, 2007, there were 16,079 persons under supervision. Most (63%) of the completed instances of supervision related to supervision in the scope of a suspended sentence, 18% related to suspension of pre-trial detention, 8% related to a Penitentiary Programme, and 3% to a conditional dismissal and transaction. The Public Prosecution Service and the judiciary commission the most instances of supervision (91%), with the prison system commissioning 7%; assignments from hospital orders and young offenders' institutions amount to no more than 2%. Supervision is the most extensive task: 39% of the budget of the probation institutions goes to this task.

4.1.2.4 Behavioural interventions

The Probation Service has a series of reintegration programmes at its disposal to aid in performing the task of *executing behavioural interventions*. The clients of the Probation Service attend these programmes on order of the Public Prosecution Service and the judiciary (as a special condition for a conditional sanction or suspension of pre-trial detention, or for the conditional release). The prison system can also commission this task (execution during detention or during a Penitentiary Programme).

The programmes are as follows:

- communication: Goldstein training;
- aggression:
 - aggression regulation training;
 - training in aggression control;
 - relapse prevention for aggressive offences.
- domestic violence;
- relapse prevention for sexual offences;
- employment:
 - employment motivation training;
 - facilitating return to work.
- addiction:
 - alcohol delinquency;
 - lifestyle training;
 - relapse prevention for substances.
- living: housing training;
- money and debt: course on budgeting;

These programmes will gradually be replaced by 10 new, accredited behavioural programmes. The new behavioural programmes are based on the concepts of "what works" and have a scientific foundation. They will be evaluated periodically

for their effectiveness. The independent Accreditation Panel for Behavioural Programmes for Offenders checks the programmes against quality criteria. The interventions target criminogenic factors and have a strongly cognitive slant: participants learn through insight and repetition. The number of sessions per training course varies (but on average is no less than ten; 10 for lifestyle up to 36 for the adapted Enhanced Thinking Skills). The care assessment indication for the accredited behavioural programmes is based on the diagnostic instrument RISC. Depending on the deficiencies identified, the person subject to jurisdiction may be eligible for one or more behavioural programmes, for example a general course in thinking skills and a course aimed at reducing aggression.

Currently, the course Cognitive Skills (Cognitieve Vaardigheden or abbreviated CoVa; based on the English programme Enhanced Thinking Skills) is available. The following programmes have already received provisional accreditation from the Accreditation Panel and are currently being tested:

- adapted Enhanced Thinking Skills course for less gifted persons;
- aggression training (ART Wiltshire);
- employment skills training;
- lifestyle training for addicted persons subject to jurisdiction;
- relapse prevention for substances.

The following programmes are still being developed:

- housing training;
- course on budgeting;
- domestic violence (based on the English IDAP);
- training for perpetrators of sexual offences (still under investigation).

The introduction and implementation of new behavioural training courses demands a great deal of energy from the probation organizations. This can be illustrated to a certain extent using the CoVa as an example. The testing phase took place in 2004 and the first half of 2005. Six groups were formed in the second half of 2005. In 2006, the training course was delivered 30 times, of which 21 were inside a prison and 9 in the community. In 2007, the course was delivered 49 times: 24 in prison, 25 in the community. The number of persons registered in 2007 was 622. 14% of them dropped out before the course started. 534 persons started the course; 74% of them completed the course, while 26% dropped out during the course. The completion percentage was higher in prison than in the community (82% against 66%). The offending behavioural programme task represented 1% of the total budget of the probation institutions in 2007.

4.1.2.5 Labour penalty

The Probation Service has been implementing *labour penalties* since the early 1980's. Labour penalties were initially considered to be a good way to get offenders back to work. This rehabilitative element has diminished increasingly. Currently, only so-called "bare" labour penalties are implemented. In the opinion of the Ministry of Justice, the labour penalty must be regarded as a real punishment, as an alternative to the prison sentence. Along this line of thinking, it is not suitable for the Probation Service to be working with persons subject to a

labour penalty order in a different way to work on their criminogenic problems. Insofar as the Probation Service offers guidance, it is aimed exclusively at stimulating, motivating and steering the offender such that he completes the labour penalty and subsequently does not have to undergo his prison sentence after all. In the meantime, the discussion is being raised again – and in a wider circle – whether the labour penalty, alongside the element of punishment, should also be made use of for tackling problems that a convicted person has caused. Insofar as necessary, it should also be possible to offer supervision and guidance, and possibly behavioural interventions. Research has proven that labour penalties of offenders with a high risk of recidivism (as a consequence of problems in criminogenic areas) fail, and conversely, it is particularly labour penalties of offenders with no problems that are completed successfully (Lünneman, Beijers and Wentink, 2005). It is precisely the combination of punishment and guidance that seems to be effective.

The labour penalty can be performed “externally” as an individual placement, and “internally” as a group placement with the Probation Service. The individual placements are handled by organizations other than the Probation Service, for example in hospitals and care homes where the offender works in the kitchen or does jobs in the garden. Daily management is the responsibility of the staff of those organizations. The Probation Service has resorted increasingly to creating and managing workshops itself where offenders can be placed who would not be able to work for individual work providers. It has emerged that the persons subject to a labour penalty have an increasingly serious profile: more serious offences, greater problems, mental and physical deficiencies. It should be avoided that the staff of the “individual projects” guide these people. Labour penalties can be imposed as a punishment order from the Public Prosecutor (see paragraph 4.2.2.) or as a penalty by the court (see 4.3.4.).

The number of community service orders is increasing continuously. In 1989, for example, the number of community service orders made amounted to fewer than 600, but by 2008, it has risen to 40,000. Community service has apparently become more popular among the judiciary, partly because of the satisfactory way it has been carried out by the Probation Service, and partly because of its favourable influence on the reduction of recidivism. In addition to these factors, the shortage of cell capacity in the 1990's has also been relevant, as has the relatively low cost of community service orders.

In 2007, the Public Prosecution Service and the judiciary gave an order to the Probation Service in 40,216 cases for implementation of the labour penalty. In 17%, the labour penalty did not start for various reasons, for example because the person subject to a labour penalty did not react to the notice from the Probation Service. These cases are sent back to the Public Prosecution Service. Of the labour penalties started, 92% were completed successfully. (In 2005, this percentage was 86% and in 2006, 87%.)

In 2007, the Probation Service implemented 35,617 labour penalties: 63% were individual placements, while 37% were group placements. Approximately 17% of all labour penalties were carried out under a punishment order from the Public Prosecutor; approximately 83% were court-imposed penalties.

The labour penalties task represented 36% of the total budget of the probation institutions in 2007.

The staff who supervise the labour penalties have an important stimulating role to get the person subject to the labour penalty to complete his penalty. In addition, the person subject to the labour penalty knows that if he does not follow the instructions, he will first be warned by the supervisors, and on a second occurrence, reported to the Public Prosecutor. The Public Prosecutor can still change the labour penalty into a non-suspended prison sentence.

4.2 The pre-trial phase

4.2.1 General: possible sanctions and measures

4.2.1.1 The Public Prosecution Service

In the Netherlands, the Public Prosecution Service plays an important part in all stages of the criminal process. The first part of the pre-trial phase is called the preliminary investigation, which is conducted by the police under the supervision and direction of a Public Prosecutor. He has considerable discretionary powers in dismissing or prosecuting a case. If he chooses to dismiss the case, the Public Prosecutor can offer a transaction to the suspect so the suspect can avoid going to trial. Another possibility is that he waives the prosecution under certain conditions. If a case does go to trial, the Public Prosecutor acts as the indicting party and demands a specific sentence in court. In cases where the judge imposes a sentence, the Public Prosecution Service is responsible for the way it is carried out.

4.2.1.2 The preliminary investigation

Every criminal case begins with an investigation of events by the police, under the direction of the Public Prosecutor. This can be because an offence has been reported to the police by a victim who has filed a complaint, or because the police, through their own observations, have reasonable suspicion that an offence has been committed. At this stage, two types of non-custodial measures can be imposed. Firstly, the police themselves can impose the measure of financial transaction. The Probation Service is not involved in this type of transaction.

Secondly, the Public Prosecutor can impose a sanction upon the suspect. Since the late 1960's, the focus of criminal justice and sentencing has moved further away from public trial in court towards the pre-trial stage, in which the Public Prosecution Service has been granted certain discretionary powers. This movement was originally driven by an inclination towards a more humanitarian administration of criminal justice, but the emphasis has increasingly shifted toward the need to reduce the pressure on the justice system. This has led to a situation whereby increasingly more criminal cases are dealt with by the Public Prosecution Service, either in the shape of a (conditional) waiver or by means of a financial transaction.

The Public Prosecutor's ability to offer a transaction was introduced in 1983. Originally, it involved settling the case out of court by offering the offender the opportunity to pay a certain amount of money or to accept another financial sanction, such as compensation to the victim, in order to avoid criminal prosecution and a trial. Since the revision of the Penal Code in 2001, the Public Prosecutor can also offer the offender the possibility to perform a labour penalty as a condition of a transaction. The maximum number of hours for a transaction labour penalty is 120. For transactions, the period of time between the perpetration of the punishable offence and the settlement is relatively short.

Transactions are not possible for crimes carrying a prison sentence exceeding six years. It is also possible to impose a transaction under certain conditions. In 2007, the conditional waiver and transactions were revised. Since 1 February, 2008, the Public Prosecutor can also impose penalties independently, for example a fine or a task penalty of a maximum of 180 hours. The accused person can appeal against this punishment order to the judge. If he does not appeal, the sanction can be executed.

The only custodial sanction that can be imposed at this stage is pre-trial detention. Technically speaking, this is not a sanction, but a means to continue the investigation and prevent the suspect avoiding possible further detention. It may last for three days at the most. If a suspect is to be detained for longer, an order from the investigating judge needs to be obtained. The judge will hear the suspect before deciding.

4.2.1.3 The preliminary judicial investigation

The preliminary investigation is followed, if necessary, by a preliminary judicial investigation under the direction of an investigating judge. The Public Prosecutor can request the investigating judge to open a preliminary judicial investigation, a request that he or she usually makes because certain specific investigative measures have become necessary. These include a search warrant, a telephone tap, the questioning of unwilling witnesses, or an examination of the suspect's mental faculties. Although there are some exceptions, such measures are normally only possible by order of the investigating judge. This is one of the reasons why a judge is involved in the preliminary investigation in Dutch criminal procedure. The investigating judge conducts the preliminary judicial investigation, questions people, and decides on the application of specific measures. The investigating judge or the court *in camera* can impose one special *custodial* measure at this stage, called *preliminary custody*. It consists of several stages in which the decision can be made to release the suspect, but can last up to a maximum of 110 days before the court session starts. As long as the sentence is not final, this preliminary detention can be continued, except for a few exceptions. The court can suspend this detention conditionally, in which case the Probation Service is often given the task of supervision of compliance with these conditions.

4.2.2 Pre-trial report

During the pre-trial phase, the Probation Service can carry out an *early intervention*. If a suspect has been detained by the police – only possible in the event of suspicion of a punishable offence for which detention on remand is permissible –, the local Probation Service unit is informed by telephone or fax as soon as possible. The cases are reviewed on a number of target-group related issues. Depending on the outcome, a probation officer visits the potential client and discusses a number of things with him. The officer tries to form an assessment of the suspect's possible problems that are relevant to the offence, and ways in which the Probation Service might intervene in order to reintegrate the suspect into society and prevent them from re-offending. A written pro-forma report is prepared that summarizes a preliminary indication of a number of factors concerning the suspect. In addition, the offender is asked to sign a declaration of consent, so the worker is authorized to take certain action, and can adhere to the regulations concerning confidentiality.

Where it is established during the early intervention stage that an offender is dependent on drugs, a report is drawn up for the judicial authorities at once in order to obtain immediate admission to clinical treatment. If no addiction is involved, the Probation Service may offer to provide the Public Prosecutor with information, in order to avoid prolonged preliminary custody, or to suspend on condition. The number of early intervention contacts in 2007 was around 15,000. In about 3,000 cases, a short report was written for the Public Prosecutor. This may lead the Public Prosecutor to officially request the development of plans for a possible suspension of the preventive detention or the preparation of a pre-trial report.

4.2.2.1 Task penalty with transaction or punishment order from the Public Prosecution Service

The Public Prosecutor can offer the labour penalty or learning penalty as a condition of a transaction. The maximum number of hours is 120. The penalty must be performed within six months of agreement. This period can be extended once. This possibility is gradually being replaced by the punishment order; this means that the Public Prosecutor can impose the task penalty independently, with an appeal by the accused person to the judge. The maximum of 120 hours has been increased to 180 hours. The Public Prosecution Service organizes special task penalty hearings. The Probation Service delivers a recommendation about the penalty to the Public Prosecutor before the hearing. A probation officer has a discussion with the suspected person in advance. Sometimes, this discussion is immediately before the hearing, and other times, it is earlier and a written advice report is available. In 2007, approximately 17% of all labour penalties were carried out within the transaction framework.

4.3 Trial and enforcement phase

4.3.1 General

Once a suspect is found guilty, a number of penalties or measures can be included in the sentence of the court. The Dutch system makes a distinction between these two categories. Penalties can, in turn, be divided into principal penalties and accessory penalties such as publication of the sentence, withdrawal of certain rights and confiscation. For reasons of brevity, and because the Probation Service is seldom involved in their execution, accessory penalties will not be considered in this contribution.

4.3.1.1 Principal penalties

There are four main types of principal penalty – imprisonment, detention, task penalty and fines (in descending order of seriousness). The principal penalties can be combined. Offences are subject to maximum penalties, but the Penal Code does not set any minimum penalties. The court may impose special conditions related to a conditional sentence. This option illustrates how the Dutch penal law is oriented towards the offender, as it provides the court with a certain degree of creativity in dealing with the offender as an individual.

Imprisonment is considered to be the most severe of penalties available to Dutch courts. Currently, the maximum punishment is life imprisonment; the maximum temporary imprisonment for some serious crimes is 30 years. In 2006, 75% of the prison sentences were 3 months or shorter and 25% was longer than 6 months. Only 3 % of prison sentences were over 3 years long. In determining the actual length of imprisonment after sentencing, excluding early release, the amount of time spent in pre-trial detention is always deducted from the final sentence. It is also possible to move through the prison system gathering more and more degrees of freedom, from a closed setting to a semi-open institution to an open prison, and so towards release.

The labour penalty can be imposed in combination with other principal penalties. The maximum number of hours for the labour penalty is 240. There is no consent requirement; the penalty can be imposed in default of appearance. The labour penalty must be performed within one year of the judgment becoming final. The Public Prosecutor can extend the period once. If the labour penalty is not commenced or not performed properly, the Public Prosecutor can order the execution of subsidiary imprisonment for non-compliance. The convicted person can submit a notice of objection within fourteen days of the order. This notice of objection does not have suspensive effect.

The labour penalty is intended primarily as an alternative to a non-custodial prison sentence, but since the new legislation of 2001, it can also be imposed instead of a suspended sentence or even a fine. In fact, it is seen now as a sanction in its own right.

If the offender fails to perform the labour penalty, he will be imprisoned for a period of time related to the number of hours that were not carried out properly. The legal ratio is one day of default detention to every two hours of the task penalty that were not carried out.

4.3.1.2 Measures

In the Netherlands, there is a double track system; that is, sanctions not only consist of penalties but also of so-called penal measures. These measures can be imposed even when there is no question of culpability. Their imposition depends on the disposition of the suspect, and their severity does not need to be related to the seriousness of the crime. The deciding factor is the possibility of influencing the behaviour or circumstances that led to the offending, or to compensate for the damages resulting from the crime or protection of the public safety. The most severe measure is placement in an institution for compulsory psychiatric treatment, known as the In-patient Hospital Order. This measure may be extended every two years if the results indicate that it would be unsafe to release the prisoner/patient into society again. The maximum duration may not exceed four years, except in certain cases of serious violent crimes when this measure may, under certain circumstances, be extended repeatedly. In theory, this measure can be the same as a life sentence. Recently, the legal potential has been introduced for conditional release from the institution, and for conditional placement, both as a condition of treatment. Supervision by the Probation Service will generally be attached as a condition of this conditional placement.

In 2004, a new measure was created aiming at the compulsory treatment of drug addicts and other persistent offenders in special Ministry of Justice institutions. The maximum length of this confinement is two years, regardless of the offence(s) involved. A milder form of this In-patient Hospital Order is the Out-patient Order. It means that the offender is not obliged to be admitted to an institution, but may remain free under conditions, if he complies with those conditions. If he does not, compulsory admission to a psychiatric institution usually follows. The Probation Service has the task of supervision of the conditions, as with the suspended sentence.

4.3.2 Pre-sentence report

The Probation Service may write a *social enquiry report* at the request of the court and the Public Prosecutor. A social enquiry report contains a description of the risk of recidivism, the criminogenic factors, the motivation of the offender for change, and a description of how this change might be achieved and the possible role of the Probation Service (supervision, behavioural interventions). In that respect, it is intended to inform the judicial authorities about the impact of various potential sanctions on the client's chances of rehabilitation. The report may therefore include advice as to the appropriate type of punishment, especially when it concerns a community sanction. If possible and practical, the advice is aimed at avoiding a prison sentence, by bringing attention to the possibility of the labour penalty or the (partially) suspended prison sentence with supervision by the Probation Service. In 2007, the Dutch Probation Service drew up a total of about 23,000 social enquiry reports.

4.3.3 Probation procedures and processes

For a description of these procedures and processes, see the general information in paragraph 4.1.1.

4.3.3.1 Electronic supervision as a “front door” alternative

Electronic supervision can be used in the suspension of pre-trial detention or for a suspended sentence. Contrary to the use of electronic supervision in the framework of a Penitentiary Programme (the back door alternative; see the paragraph on Penitentiary Programmes), these options are called the front door variation. These front door variations have not yet been provided by law, but a legislative bill is being prepared to include electronic supervision, in the sense of home detention controlled by electronic supervision, as a principal penalty in the Act. This legislative bill will require the convicted person to spend 22 hours per day at home. That means that the convicted person may not work or follow a course, unlike the situation with the current experimental form. If the law is passed, the Probation Service will not have a supervisory role in this principal penalty. A probation report always precedes the use of this form of supervision. Failure to comply with the general and specific conditions will result in the Probation Service reporting to the Public Prosecutor, who brings the case before the judge, in much the same way as would be done for community service breach.

Electronic supervision relates to the technical device used to monitor compliance with the special condition(s). In most cases, the technical device is an “ankle bracelet” (transmitter) in combination with a receiver (“box”); however, GPS (permanent electronic monitoring) is also being used increasingly often, as well as voice recognition (the option of voice control via the fixed-line telephone network). The Probation Service recommendation proposes the measure that is preferred, given the circumstances such as the nature of the special condition and the risk of recidivism.

The Dutch Probation Service is responsible for the execution of the electronic supervision. There are four options:

I. Electronic supervision as a special condition for the suspended order of pre-trial detention. The prosecutor can attach the use of electronic supervision to the demand for suspension of the order of pre-trial detention.

II. Electronic supervision as a special condition of a suspended sentence. If the prosecutor is considering a (partially) suspended prison sentence, he can demand the use of electronic supervision.

III. To replace the demand of a maximum of 6 months non-suspended prison sentence, the prosecutor can consider the demand of the following special condition:

Participation in a programme of at least 26 hours per week, combined with the use of electronic supervision.

- a. This is an alternative to a non-suspended prison sentence of a maximum of 6 months.
- b. The convicted person stays at home during participation in the programme, except for the times agreed in advance. The convicted person follows a programme of at least 26 hours per week. The programme consists of work, education and/or training.

c. Conditions are: consent to and signing of an agreement by the participant, suitable accommodation, a meaningful way of spending the day, and the consent of other household members.

IV. Substitution of a non-suspended prison sentence of 6 to 12 months. If the Public Prosecutor deems that a non-suspended prison sentence of 6 to 12 months must be substituted, he can consider the demand for a labour penalty. In that case, a suspended sentence of a maximum of 6 months is demanded, followed immediately by a labour penalty of no more than 240 hours.

All the above forms are called the front door variations of electronic supervision. This variation was used 109 times in 2006, and 107 times in 2007. The percentage of failures is about 16%.

4.3.3.2 Probation activities in the penitentiary institutions

The Probation Service performs the following activities in the penitentiary institutions:

- the Probation Service can visit detainees in the remand centres with the purpose of delivering a pre-sentence report on order of the Public Prosecution Service or the judiciary;
- delivering a recommendation containing a re-integration plan. The prison system makes a detention plan and the Probation Service makes a re-integration plan for each detainee who has a remaining penalty of 4 months or more. In that case, the Probation Service makes a diagnosis based on the RISc. The re-integration plan specifies what the further detention route looks like, whether the detainee is eligible for a behavioural intervention, and whether the detainee can participate in a Penitentiary Programme. It must be noted here that a detainee who does not cooperate in a re-integration project will not be offered detention phasing (that is, a transfer to an institution with more freedom of movement inside and outside the institution) or leave. In 2007, the Probation Service and the prison system delivered 2,730 recommendation reports and 29 comprehensive reports;
- implementing behavioural interventions inside the penitentiary institutions. In 2006, the Enhanced Thinking Skills course was given 21 times, and in 2007, 24 times;
- making a conditional release report for those detainees who are eligible for conditional release. See below.

For most detainees, the detention takes a very short time. This is shown in the table below.

Table 4: Duration of stay in penitentiary institutions; outflow 2007 (source: Custodial Institutions Service (DJI), Ministry of Justice)

< 2 weeks	9,481 (26.9 %)
< 1 month	16,385 (46.5 %)
< 2 months	21,563 (61.2 %)
< 6 months	28,710 (81.4 %)
> 6 months	6,064 (17.2%)

The total length of a prison sentence can be shortened by means of the conditional release described above, or by a general pardon. The power of this pardon rests with the Crown, being the King and his Ministers. The grounds for granting a pardon are formulated in law.

4.3.3.3 Penitentiary Programmes

The Penitentiary Programme is intended to let detainees gradually become accustomed to a return to society. This programme offers prisoners the possibility of spending the last part of their prison sentence outside the institution. The participant has limited freedom and is monitored by the Probation Service. Only adult detainees are eligible who have been sentenced to a non-suspended prison sentence of at least six months. Furthermore, they still have at least four weeks and no more than one year remaining of their prison sentence. Participants in the programme are obliged to cooperate in a number of activities. Examples of activities are a work project, or treatment for a psychological disorder or addiction. The programme must run for at least 26 hours per week. The participant will be subjected to electronic tagging during the first part of the programme (one third of the total duration).⁸ This is also called the back door variation of electronic supervision.

After advice from the Probation Service, the prison management applies to the selection manager on behalf of the prisoner. The applicant is informed of the conditions and consequences of participation in the programme, and must give consent based on that information. An attachment of the application is an outline of the proposed programme, which is drawn up by the organization that will supervise it – either the Probation Service or the prison. The prison governor remains responsible for the participant in the programme. When a failure to comply occurs, the supervising organization reports this to the prison governor,

⁸ The participant must give his informed consent to electronic tagging, as do the people with whom he shares a household. An ankle bracelet is used for tagging; it can be worn so that it is not visible. The anklet transmits a signal to a receiver inside the house that is connected to a central computer by means of a telephone line. The participant's daily programme is entered in the computer, so that regular routine controls will show whether the participant is complying with the conditions. If a failure is registered, the Probation Service is warned and conducts an investigation. If the participant complies with the conditions, he will be given progressively more freedom of movement during the course of the electronic supervision.

who in turn informs the selection manager with a request for the participant to be imprisoned again.

The Penitentiary Programme was applied to 1,135 cases in 2006, while in 2007, that was 811 cases. About 12.5% of the cases of the Penitentiary Programme prove to fail, in the sense that the convicted person does not comply with the conditions. The programme is then stopped and the person spends the rest of his detention back in the institution.

4.3.4 Labour penalty

In 2007, the Probation Service implemented just under 30,000 labour penalties relating to the trial and enforcement phase. This is approximately 83% of the total number of labour penalties. If a convicted person fails to perform his labour penalty (properly), the Public Prosecutor can order the execution of a non-suspended sentence instead. In practice, failure to comply with the conditions of an imposed labour penalty leads to arrest and imprisonment in almost all cases. Only a small number of convicted persons are given a “second chance” to perform their labour penalty.

4.4 Post-release phase

With the Penitentiary Programme described above, the detention period continues, albeit outside the institution. In that sense, the Penitentiary Programme is not part of the post-release phase. What does belong to the post-release phase is the conditional release and the commencement of the suspended prison sentence in those cases where the non-suspended part of the prison sentence has been served. With both variations, the judicial authorities often impose special (behavioural) conditions as well as the general conditions that no more offences are to be committed. The Probation Service monitors whether the offender is complying with these conditions, and guides and stimulates him to complete the period under supervision satisfactorily.

4.4.1 Conditional release

Every person subject to an unconditional prison sentence exceeding six months in duration is entitled to be released after serving two-thirds of the sentence, or in case of a sentence between six and twelve months, after six months plus one-third of the remainder. The early release regulations only apply to principal, fixed-term prison sentences. Since its introduction as conditional release in 1886, early release had been a privilege and was only available to those who had shown good conduct during their imprisonment, until it was turned into a right for all prisoners in 1987. The reason was that it became increasingly unclear what the criteria were for this early release, and this coincided with a shortage of cell space. Early release is unconditional, there is no probationary period and it cannot be revoked. In very exceptional cases, early release can be refused, for example in cases of especially bad behaviour or an attempt to escape. Wide dissatisfaction with the existing situation has slowly grown, resulting in the introduction of a new law for conditional release. This law will enter into force on 1 July, 2008.

Under the current law, a convicted person becomes eligible for early release if he has served two-thirds of his sentence. No conditions are attached to that release. If the offender commits a criminal offence again, the release cannot be revoked. That will be possible under the new law. From then on, a convicted person who has received a prison sentence of longer than one year will only be granted early release under conditions. The general condition is that the convicted person may not commit an offence again during his operational period. Special conditions can also be imposed on the convicted person, such as an alcohol ban, or having to follow a behavioural intervention or treatment. These conditions are geared to the person, the type of offence, and the risk of recidivism. If the convicted person does not comply with the conditions, the release can be revoked. In that case, the convicted person must still serve the rest of the sentence or part of it. The new law only applies to persons who are given a non-suspended prison sentence of at least one year in length (or several short prison sentences that add up to at least one year). The general condition that the convicted person will not commit any new offence during his operation period is always attached to the conditional release. Moreover, the Public Prosecution Service can impose special conditions on the convicted person. As stated previously, they can be geared to the specific circumstances of the offence and the offender. They can be conditions that limit freedom, such as an order prohibiting contact, an order prohibiting access to certain locations, a drug and alcohol ban, or an obligation to report. Conditions influencing behaviour can also be imposed, for example, following a training course. Special conditions can also be oriented towards care, such as treatment at a mental healthcare institution, or addiction services.

The operational period of a special condition is determined by the Public Prosecution Service. The convicted person must declare he is willing to comply with the conditions.

Deferment or cancellation of conditional release is possible if the convicted person (repeatedly) behaves extremely badly during detention, or commits a

criminal offence during his detention. If the convicted person has tried to escape, or has escaped, the conditional release can also be cancelled or not applied. Furthermore, if there is a great risk of recidivism and, during detention, a convicted person does not cooperate in programmes to reduce this risk, it can be decided that the person may not be released early, or not until a later date. The same applies if the convicted person does not declare himself willing to comply with the conditions.

If a convicted person is released conditionally and, during his operational period, does not comply with the conditions imposed, a swift reaction will ensue. Depending on the seriousness, this can consist of the termination of the release, a change to the special conditions or – if the breach of the conditions was very minor – a warning. An important role awaits the Public Prosecution Service here. The Public Prosecution Service decides whether special conditions are attached to the conditional release. The prison system and the Probation Service advise the Public Prosecution Service in this. The Public Prosecution Service can also decide to submit to the judge a demand for deferment, cancellation or revocation of the conditional release. The judge makes a decision on this. The judge also determines whether a conditional release is to be (partially) revoked if the offender on early release has not complied with a condition.

The Probation Service and the police play an important part in the supervision of the compliance with the conditions. The Probation Service performs the supervision of compliance with the conditions. The Probation Service guides and monitors the person on early release. Guidance consists of activities that motivate and support the person on early release to adhere to the special conditions. Monitoring consists of regular personal contact with the person on early release and his environment (for example, school, employer, mental healthcare clinic). If necessary, electronic supervision can be applied to the person on early release. If the Probation Service considers that the police can play a part in the monitoring of the special conditions, a community police officer can be deployed. If the Probation Service observes that the person on early release is not complying with the special conditions imposed, the Probation Service reports this to the Public Prosecutor and the conditional release can be revoked.

4.5 Care and after-care outside the criminal justice system

In terms of follow-up care, in the Netherlands, the contact between the Probation Service and its clients ceases with the ending of the judicial context. In other words, once the sentence has been served and the offender can begin with a clean slate, the work of the Probation Service is over. Since 2004, the Ministry of Justice no longer subsidizes after-care activities. The responsibility for after-care lies with the municipalities that have to treat the ex-offender as a normal citizen, entitled to the same services and arrangements as every other citizen. A new civil law, the Social Support Act (Wet Maatschappelijke Ondersteuning: WMO), underlies the responsibility of the municipalities. But this does not remove the problems of the ex-detainees. Every year, about 35,000 residents of Dutch municipalities end up in a judicial institution. In many cases, these are people with complex problems: addiction, psychiatric problems, homelessness, debt,

and criminality. Many of them live on the fringe of society. When they return, they have to cope with a great deal of bureaucracy in the municipalities, while the waiting periods for all kinds of authorities are long. Most of them settle again in the municipality they came from. They only have limited social skills for tackling things properly. When all this is added up together, it results in a high percentage of recidivism: 70% of the adult detainees are sentenced again within 6 years due to recidivism. The prison system started the Connecting with After-Care Project (Project Aansluiting Nazorg) so that the transition from the penitentiary institution to the community can proceed with fewer problems. There is an attempt to make improvements in four areas for all detainees who leave the penitentiary institutions: ensure that, when detainees are released, they have an identity document (always necessary when applying for welfare benefits or obtaining accommodation), an income, accommodation, and healthcare. About 200 full-time employees have been appointed for the “social services” in the prison system. Their task is to screen all incoming detainees on the four areas. This information is then passed on to the municipality where the detainee is intending to settle. Through cooperation between the social services employee and the municipalities, there is an endeavour to solve the obstacles identified in the four areas.

In those cases where the detainee is eligible for conditional release and special conditions have been imposed, the Probation Service has the judicial basis to stay in contact with the ex-detainee even following the detention period. However, the Probation Service does not take over the responsibility of the municipalities; it does support the ex-detainee in making as good use as possible of the municipal facilities. The municipalities sometimes pay the Probation Service to provide guidance for ex-offenders and ex-detainees.

5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION

5.1 and 5.2 Finances and accounting

The budget of the Dutch Probation Service for probation activities (“production”) was €156 million in 2007. On top of that, a budget of around €20 million was available for special research & development projects and for change & reorganisation projects.

The Ministry pays the Service a certain amount of money for delivering specified outputs. Quantity and quality are negotiated on an annual basis, and each probation organization is subject to a quarterly planning and control cycle. The Ministry sets out the broad lines of quantity and quality for the coming year. The probation organizations at the regional level (19 districts) then commence discussions with the authorities that commission the Probation Service: the Public Prosecution Service, the judiciary and the prison system. The discussions are about which activities or products these commissioning authorities will require in the coming year. The result of the discussions is sent to the Ministry. The Ministry collects the wish lists, and determines what the quantitative and

qualitative framework for the coming year will be, and therefore what “output” the probation organizations must deliver. For instance, the output required can consist of a specified number of community service orders or social enquiry reports. The probation organizations receive their funding in advance, based on negotiated targets, and can base their staffing policy on this projection. The organizations report on outputs every four months, so that adjustments can be made if necessary.

Staff

The table below outlines the staffing situation within the Dutch Probation Service in 1997 in terms of the number of available positions (full-time equivalents).

Table 5

	RN	SvG	Salvation Army	Total
Management/ staff	159	23	27	209
Executive personnel	1,153	573	168	1,894
Administrative personnel	159	85	23	267
Total	1,471	681	218	2,370

Due to part-time employees, the actual number of people employed by the probation organizations is 2,718.

5.3 Registration systems and evaluation procedures

The registration system the three probation organizations use is the Client Tracking System (*CVS*). The probation officer uses this system to register the requests from the commissioning authorities, the conditions and agreements, the activities (planning), the programmes and interventions performed, and their outcome. More general information like age, gender and country of birth is also registered. Over the past few years, the system has been expanded with separate modules such as the Labour Penalty Module (registration of labour penalties), and modules for the diagnostic instruments QuickScan (brief advice) and the RISC Recidivism assessment scale (comprehensive advice).

The CVS contains standard requests used for control and policy information. The CVS is also the instrument for financial accounts to the Ministry of Justice. Reports are delivered periodically within the planning and control cycle. Besides the standardized requests, requests for specific information (from regions, probation organizations and chain partners) can also be submitted to the national office of Reclassering Nederland. All reports are made anonymous. Probation Service staff sign a declaration about the confidentiality of personal data.

5.4 Societal support and clients' views

No systematic data is available on what clients of the Probation Service think about the organization. Reclassering Nederland has done two studies (in 2003 and 2006) into the general public's image of the Probation Service, and into what professional target groups (prison system staff, the police, the Public Prosecution Service and the judiciary) think.⁹

⁹ Kempen, van, P., Bekendheid en imago van reclassering Nederland. Report on a survey ("1-meting") amongst chain partners, municipalities and the Dutch population commissioned by Reclassering Nederland. Amsterdam: Van Kempen onderzoek en advies, 2006.

Professionals gave the Probation Service an average of 6.6 (on a 10-point scale). In 2006, fewer fails were given: 11% compared with 22% in 2003. The report mark of 6.5 awarded by the public to the Probation Service is about the same as the score from the professional target groups. The task that towers above all the others in spontaneous familiarity is the guidance of ex-detainees: 52%. Strangely enough, the Probation Service no longer provides guidance to ex-detainees (unless in the scope of the conditional release) (see paragraph 4.4).

6 PROBATION CLIENTS' RIGHTS

6.1 General

In general, Probation Service clients have the same rights as any other Dutch citizen, with the same limitations when they are serving a prison sentence. For that matter, there are no statutory provisions, regulations or code containing all the rights of the clients that can be derived from the (general) statutory regulations that have been mentioned above in various paragraphs. However, there is a Personal Data Protection Charter¹⁰.

6.2 Complaints procedures

Clients have the opportunity to complain to a national Complaints Committee about the way the Probation Service treats them. This Committee has three members, who are fully independent of the Probation Service. The president of the committee is always a judge, and the members may not work for the Probation Service, or be active as volunteers or Board members. The committee members are appointed by the Minister of Justice. Clients are advised to discuss their complaints with the probation officer in question and, if this does not lead to a satisfactory result, with the unit manager concerned. If that does not solve the problem, a complaint can be filed with the Committee. This complaint must be filed within six weeks of the event in question, or the last conversation with the officer or unit manager. The Committee will acknowledge receipt of the complaint within one week, and inform the client of the actions it will take. It will decide whether the complaint is open to investigation, and will first consider whether mediation is possible. If this is not deemed sensible, the committee will call for a meeting and make a decision after hearing the parties involved. The complaints procedure concerns the behaviour of and decisions taken by the Probation Service in its everyday contact with clients. It is not possible to take a complaint on appeal to a higher complaints body. However, clients can go to Court, particularly in cases where they believe the Probation Service has caused damage (a civil proceedings in which the Probation Service is held liable). Should a client disagree with a decision made by the Probation Service concerning the supervision of a court sentence, e.g. the designated workplace for community

¹⁰ Currently, Reclassering Nederland is developing a code of conduct for probation officers. It will contain instructions on behaviour that probation officers must follow when they perform their work.

service, they can take the case back to the Public Prosecutor or, by refusing and thus failing to comply, back to the court.

In 2006, the Inspectorate for the Implementation of Sanctions of the Ministry of Justice published a study into the functioning of the complaints procedure.¹¹ The complaints committee received 24 complaints in 2005. In the opinion of the Inspectorate, an essential part of the complaints procedure, prompt and correct information, is not sufficiently accessible to clients.¹²

7 NEW DEVELOPMENTS

In addition to the organizational and methodological changes in the Probation Service itself, already mentioned in the text, there are a number of recent and potential developments in the Dutch sanctions system with consequences for the Probation Service. They are described in short below.

7.1 Optimization of conditional sanctions

The government is keen to achieve a 10% reduction in crime. An approach directed at the individual, combined with the application of judicial conditions, is regarded as an important means. Various (scientific and policy) publications have shown that there are possibilities for extending the use of special conditions. The short, non-suspended prison sentence segment in particular has space for this. A good, made-to-measure implementation of the special conditions makes it easier to drop a (short) prison sentence and so reap the benefits that an extramural sanction has in comparison with the same prison sentence. The 2006 Recidivism Monitor from the Research and Documentation Centre (*WODC*) shows that, two years after the expiry of the penalty, the percentage of recidivists among persons subject to jurisdiction who received a conditional prison sentence was considerably lower than that of persons subject to jurisdiction who received a short prison sentence (35% and 63% respectively).

In practice, there are obstacles in the way of the broader application of special conditions. In relation to this, the Minister of Justice has announced the following measures:

- closer cooperation between the chain partners;
- shorter processing times (through correct and timely exchange of information, among other things);

¹¹ Research topic – Functioning of the complaints procedure of the Probation Service, Inspectorate for the Implementation of Sanctions, October 2006.

¹² In addition, the Inspectorate gave the following factors as an explanation for the low number of complaints: most clients have no knowledge of the possibility of a complaint; the staff on the work floor are unable to understand much from the formal definition of what a complaint is; complaints submitted to the unit managers are not registered systematically and often not considered as such; due to their social and psychological circumstances, clients do not know how to formulate their dissatisfaction as a complaint; and the dependence and lack of objectivity that clients may experience.

- re-evaluation and reorganization of the provision of advice;
- improvement of supervision;
- swift and consistent reaction to non-compliance with special conditions;
- application of the legal framework.

In 2008, projects have been started in various districts to test, monitor and evaluate an improved working method in practice. The Probation Service is closely involved in these projects.

7.2 Strengthening ties with universities and schools of social work

There is only limited contact between the academic world on the one side and the Probation Service on the other. The number of publications about the Probation Service is similarly very small. Insofar as there are recent publications, their character leans strongly to the application side (for example, an evaluation study into the introduction of new behavioural interventions and diagnostic instruments). Fundamental research is missing. The effects of task penalties are not known, but nor are those of (compulsory) Probation Service supervision in the framework of conditional sentences and conditional releases, in terms of recidivism, social reintegration and personal wellbeing. Three important developments have taken place:

- in 2008, a special professorship will be established at one of the universities, with the research topic being "Probation";
- in 2008, special "Probation" lectureships and knowledge networks are being set up at two colleges of advanced education. The intention is that research will be done in the field of probation, and educational programmes developed. Ultimately, the viewpoint is that a professional degree course in "Probation studies" will be provided at these colleges of advanced education, and that refresher and reskilling courses will also be given;
- the Minister of Justice is developing a research programme for the longer term in the field of probation. The effective constituents of Probation Service work in particular will be examined. A comprehensive literature study has appeared in preparation of this research programme (Poort & Eppink).

8 IMPORTANT PUBLICATIONS

Publications about the Probation Service are almost exclusively in Dutch.

M.Boone, *Leren diversifiëren: Reclassering en culturele diversiteit*, 2002, Utrecht: Willem Pompe Instituut, 2002
Research report on diversity and probation.

J.P. Heinrich, *Particuliere reclassering en overheid in Nederland sinds 1823*, 1995, Arnhem, Gouda Quint
The historical development of the Dutch probation organization(s) and their relationship with the government.

M.J.G. Jacobs, A.M.van Kalmthout & M.Y.W. von Bergh, *Toepassing van bijzondere voorwaarden bij voorwaardelijke vrijheidsstraf en schorsing van de voorlopige hechtenis bij volwassenen*, 2006, Tilburg: IVA beleidsonderzoek en advies

Research report on the application of conditional sentences and conditional suspension of pre-trial detention.

With an English summary, available on: <http://english.wodc.nl/>

A.M. Kalmthout, A.M. & P.J.P. Tak, *Sanctions-systems in the member-states of the Council of Europe (part II)*, 1992, Deventer, Kluwer

An overview of sanctions in the Netherlands (i.a.) with special attention to community service.

L. van der & S. Bogaerts, *Criminogene problemen onder justitiabelen die in aanmerking komen voor gedragsinterventies*, 2007, Den Haag: WODC

Research report on criminogenic problems under offenders potentially suitable for behavioural interventions.

With an English summary, available on: <http://english.wodc.nl/>

K. Lünemann, G. Beijers & M. Wentink, *Werkstraffen: succes verzekerd? Succes- en faalfactoren bij werkstraffen van meerderjarigen*, 2005, Den Haag: WODC, Ministerie van Justitie

Research report on the components of success and failure with regard to the labour penalty. With an English summary, available on: <http://english.wodc.nl/>

A. Menger & L. Krechtig, *Het delict als maatstaf, Methodiek voor werken in gedwongen kader 2004.*, Utrecht: Stichting Reclassering Nederland

Practice based methodology for the probation setting.

R. Poort & J. Bosker, *Modernisering van het reclasseringstoezicht. Een nieuw systeem*, 2005, PROCES, 84, pages 175-182

Article on the outline of the modernization of probation supervision.

R. Poort & K. Eppink, *Een onderzoeksprogramma voor de reclassering. Adviescommissie onderzoeksprogrammering reclassering*, 2008 (not yet published), Den Haag,

Literature study and analysis as basis for a probation research programme.

Rood-Pijpers, E. & Combrink-Kuiters, *Gelet op de reclassering*, Gouda Quint, Arnhem, 1991

A study into the image of the probation service as perceived by the judiciary, clients and the general public.

K. Schuyt & M. Kommer (ed.), *Niet bij straf alleen*, 1998, Amsterdam, Amsterdam University Press,

A number of research based essays on the probation service in its 175th year. its 175th year

E.C. Spaans, *Appels en peren*, 1994, Arnhem, Gouda Quint
A comparative investigation into re-offending rates between those sentenced to community service and those sentenced to imprisonment.
With an English summary.

E.C. Spaans, *Werken of zitten*, 1995, Arnhem, Gouda Quint
Net-widening as a result of the introduction of community service. With an English summary.

B.O. Vogelvang, A. van Burik, L.M. van der Knaap & B.S.J. Wartna, *Prevalentie van criminogene factoren bij mannelijke gedetineerden in Nederland*, 2003, Den Haag: Adviesbureau Van Montfoort & WODC
Research report on the prevalence of criminogenic factors under male detainees in the Netherlands.
With an English summary, available on: <http://english.wodc.nl/>

Werkgroep gedragsinterventies van het programma Terugdringen Recidive, *Gedragsinterventies*, Den Haag: Ministerie van Justitie, 2005
Report on the introduction of behavioural interventions for offenders.
With an English summary.

K. Wittebrood, J.A. Michon & M.J. ter Voert, *Nederlanders over criminaliteit en rechtshandhaving*, 1997, Arnhem, Gouda Quint, Arnhem
A number of research-based essays on the views of the general public on crime and punishment.

9 CONTACT DETAILS

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The Research and Documentation Centre of the Ministry of Justice can be approached with questions about specific data available in publications on crime and sanctions, and criminal policy (<http://english.wodc.nl/>). Furthermore, the Dutch Central Statistics Bureau publishes data on crime and justice at regular intervals. Its website can be consulted on these and many other matters: <http://www.cbs.nl/>. The information is in Dutch.

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ANNEX I

Criminal statistics

1. Input offender statistics

Table 1.1 Prison Sentences imposed on adults in 2004, 2005 and 2006

	2004		2005		2006	
Prison sentences	Number	%	Number	%	Number	%
< 1 month	10,357	31	8,755	30	7,712	31
1 month - < 3 months	8,472	25	7,351	26	6,651	26
3 - < 6 months	5,862	18	5,080	18	4,662	18
6 - < 12 months	4,210	13	3,763	13	3,214	13
1 - < 3 years	3,088	9	2,652	9	2,200	9
Over 3 years	1,324	4	1,097	4	846	3
Total	33,313	100	28,698	100	25,285	100

Table 1.2 Type of sanctions/measures imposed upon adults in 2006

Verdict/ admonition only	937	1 %
Fines	52536	31%
Non-custodial sanctions and measures	73164	44%
<i>Of which</i> Community service	33150	(20%)
Suspended custodial sanctions and measures	14919	10%
<i>Of which</i> Combined with Community Service	10086	(6%)
Unsuspending custodial sanctions and measures	25333	15%
Other measures	577	0%
Total	167466	100%

Table 1.3 Adult prisons (included institutions for pre-trial detention), 2005-2006

	2005	2006
Adult prisons	16,693	15,328
Official capacity	18,095	18,735
<i>Of which</i> pre-trial detention	14,146	13,996
Total staff	13,858	14039

Note: In 2007 one day in prison costs an average of €197, excluding the cost of building prisons. In 2007, the average labour penalty amounted to almost 72 hours, which is equivalent to a little over 1 month of imprisonment. An average community service order costs approximately €1,056, or the equivalent cost of 5 days imprisonment. (Source: WODC, Ministry of Justice)

Table 1.4 Duration of stay in penitentiary institutions; outflow 2007
(source: Custodial Institutions Service (DJI), Ministry of Justice)

< 2 weeks	9,481	(26.9 %)
< 1 month	16,385	(46.5 %)
< 2 months	21,563	(61.2 %)
< 6 months	28,710	(81.4 %)
> 6 months	6,064	(17.2%)

2. Average offender population statistics

Table 2.1 Probation Service clients in 2007¹⁴

Gender	Number	%
Male	15,133	90
Female	1,687	10
Total	16,820	100

Age	number	%
Up to 25	4,849	29
26-40	6,651	39
Over 40	5,352	32
Total	16,852	100

Education ¹⁵	Number	%
Certificates	8,634	52
No certificates	5,137	31
Unskilled	2,948	18
Total	16,719	

¹⁴ Based on the assessment instrument RISC.

¹⁵ Certificates: one or more certificates that provide access to the employment market; no certificates: a course was followed, but not completed with a certificate that provides access to the employment market; unskilled: only primary education, completed or otherwise.

Alcohol Addiction	%
Little to no alcohol consumption	73
Regular alcohol consumption with some influence on daily functioning	18
Excessive alcohol consumption	8

Delinquent behaviour related to alcohol consumption	%
Alcohol did not contribute to the delinquent behaviour	69
Alcohol did play a part in the delinquent behaviour, but not the main part	10
Alcohol played an important part in the perpetration of the offence	19

Drug use	
Yes	55%
No	45%

Delinquent behaviour related to drug use	%
Drugs did not contribute to the delinquent behaviour	34
Drugs did play a part in the delinquent behaviour, but not the main part	7
Drugs played an important part in the perpetration of the offence	13

3. Staffing statistics

The staffing statistics were presented in Chapter 5.

Appendix: RISC instrument

The RISC (*Recidive InschattingsSchalen*) is based on the “Offender Assessment System” of the Probation Service in England and Wales, the objective of which is: *“The assessment of the risk posed by an offender, and the identification of the factors which have contributed to the offending, are the starting points for all work with offenders.”* (Home Office, 2001)

The RISC is intended to identify, understand and improve criminogenic factors on the one hand and the responsiveness of the person subject to jurisdiction on the other. Specifically, it is about finding answers to the following questions:

- what is the estimated risk of recidivism and what is the risk of harm (self and environment)?
- which criminogenic factors play a part and in which living areas does this offender have criminogenic factors to a high degree?
- what are the possibilities (or impossibilities) (responsiveness) of this offender to profit from a specific intervention?

There are three parts to the RISC: basic diagnostics, deepening diagnostics, and care assessment indication for an intervention. Basic diagnostics and the care assessment indication for an intervention are always completed for all offenders, while the deepening diagnostics are only used in certain circumstances. For the basic diagnostics, information is collected about the history of offences, the analysis of the current offence and dynamic criminogenic factors. This involves:

1. history of offences;
2. current offence and offence pattern;
3. accommodation and living;
4. education, work and learning;
5. income and handling money;
6. relationships with partner, family and other relatives;
7. relationships with partner, family and other relatives;
8. drug use;
9. alcohol consumption;
10. emotional wellbeing;
11. thinking patterns, behaviour and skills;
12. attitude.

The probation officer refers to the User Guide to establish scores. These scores are linked to an estimation of the risk of recidivism. A meeting among colleagues determines which intervention is the most suitable, based on the scored risk of recidivism and additional information.

The RISC is an actuarial instrument with clinical elements. For instance, establishing the (relative severity of the) risk of recidivism and the criminogenic factors is based on statistical research, but the interpretation of this data that must result in a care assessment indication for necessary intervention and risk management is a professional matter.

