

***Recommendation from the Council for the Administration of Criminal Justice
and Protection of Juveniles***

- Summary -

**Juvenile criminal law, neuroscience and ethics. Ethical considerations in the future
application of neuroscientific insights into juvenile criminal law.
A foresight study**

Recommendation to the Dutch State Secretary for Security and Justice, dated 17 February 2014
Date of recommendations

In the search for new opportunities for diagnostic examination and treatment of juvenile offenders neurobiological insights currently play an important role. At the Ministry of Security and Justice (VenJ) there is the expectation that, in the future, the new insights may lead to improvements in diagnosis and treatment options of juvenile offenders, but that this development also raises ethical questions. The Council has been asked to provide advice concerning these ethical aspects. The Council feels that it is still too early to actually advise about this and has therefore drawn up the request for advice in the form of an exploration. This provides an inventory of the ethical aspects that could be at stake in eventual new forms of diagnosis or treatment of youthful individuals based on neurobiological insights.

The key questions for this exploration are:

- To what extent the neurobiological nature of new diagnostic or treatment options raises ethical questions?
- To what extent are ethical questions related to the specific context in which the new possibilities may be applied, namely the compulsory framework of juvenile criminal law and the youthful age of the offenders?

The first question leads to the provisional conclusion that, from an ethical perspective, in principle it is not relevant whether or not a new application is based on neurobiological or on common behavioural insights. The ethical question of justified application of a diagnostic or treatment possibility is about general considerations such as: What is the aim of the diagnostics or treatment, how far-reaching is this, is the individual autonomy respected, are the benefits carefully weighed against the risks? These questions should always be asked in the application of diagnostic and treatment options, whether or not they are based on neurobiological insights. However, with regard to possible new applications, some items for consideration are mentioned, such as caution in the interpretation of diagnostic neurobiological research.

The second question leads to the conclusion that the application of diagnostic and treatment methods within the context of the juvenile justice system demands extra caution. The young age and compulsory framework of the juvenile justice system ensure that juvenile offenders are a vulnerable group. From an ethical perspective, the extent to which possible new diagnostic or treatment applications could benefit the development of the juvenile and what the possible risks are must be carefully considered.

*The recommendation can be obtained from the secretariat of the Council
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