

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

- Summary -

Placement in secure facilities of juveniles under criminal law and juveniles under civil law

Advisory report for the Dutch Minister for Legal Protection and the Dutch Minister for Health, Welfare and Sport, 22 February 2018

In the 2015 advisory report, entitled *Gekanteld perspectief* (Changed perspective), the Council for the Administration of Criminal Justice and Protection of Juveniles (Raad voor Strafrechtstoepassing en Jeugdbescherming, RSJ) proposed a new system for the deprivation of liberty of juveniles under criminal law. This system is characterized by a large number of small scale facilities in major cities and various regions, with a limited level of security. It is based on the principle that the nature and seriousness of the psychosocial issues of the juveniles in question determine the required treatment and security.

In the present advisory report this principle is applied to civil law titled juveniles, currently residing in Youth Mental Health Care institutions (pursuant to the Psychiatric Hospitals (Compulsory Admissions) Act) and juveniles residing in enhanced youth care centres (*Jeugdzorgplusinstellingen*, pursuant to the Youth Act). With regard to these juveniles as well, the RSJ Advisory department believes that the psychosocial issues should determine the proper treatment and security measures needed. This requires a thorough screening and diagnosis at an early stage as a basis to gather evidence on treatment and security indicated, as well as which place/facility is the most capable of providing this.

The psychosocial issues a juvenile is dealing with, take precedence rather than the judicial title. This approach implies that juveniles under criminal law and juveniles under civil law can be placed in the same institution or group, dependent on the nature and seriousness of the issues they are dealing with. In addition, it implies that although these facilities are secure, they must be stripped of 'criminal-law' elements and features, for example bars and high fences.

In some cases, the placement of juveniles detained under criminal law and juveniles under civil law in the same institution or group may meet with objections. To this end, the placement decision should concern a number of aspects, including the interest of the criminal investigation, the problems and developments with which juveniles are dealing, and the offender-victim relationship. Other aspects that should be considered are feelings related to the fairness or unfairness of placement and the assessment of the risk of 'criminal contagion'. These considerations can be a reason for placement elsewhere, if necessary.

These recommendations can be consulted on the Council for the Administration of Criminal Justice and Youth Protection website www.rsj.nl under the header Recommendations (Adviesring)