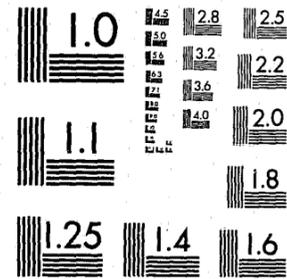


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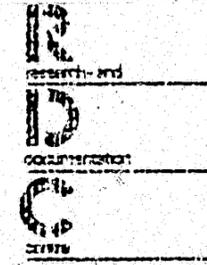
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RECIDIVISM
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SPECIAL DETERRENCE

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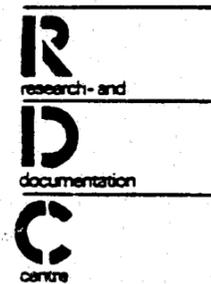


Ministry of Justice The Hague - Netherlands
1978

RECIDIVISM
and
SPECIAL DETERRENCE

NCJRS
AUG 29 1980
ACQUISITIONS

dr. C. van der Werff



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1. INTRODUCTION ^{xx)}

The administration and parliament are constantly pointing out the need for Dutch statistics on recidivism of offenders and on the special deterrent effects of various penalties.¹⁾

So far there has been no general research in the Netherlands on this subject, although one project can be mentioned in which the special deterrent effects of the various sentences have been studied for a specific category of traffic offenders, i.e. "drinking drivers" (under Section 26 of the Road Traffic Act). The author's conclusions were that among convicted offenders the (slightly) higher reconviction rates of those given severer sentences are attributable to differences in the offenders' background variables such as previous criminal history and age. Different penalties apparently had no effect on recidivism.²⁾ In addition, there have been a number of studies comparing the effects of various prison regimes on recidivism. Examples of these are a comparative study of the effects of open and closed penal institutions³⁾, research into the efficiency of Bankenbosch as a special prison for traffic offenders⁴⁾ and research into the effects of two different prison regimes on the recidivism of those with medium-term prison sentences.

In the Netherlands however, until now research aimed at comparing the special deterrent effect of sanctions such as fines, imprisonment and suspended sentences has not yet been done for other than traffic offenders.

Abroad, especially in the English-speaking countries special deterrence has formed the subject of extensive research. These studies have led to the conclusion that on the whole there is little difference, if any, between the special deterrent effect of the various penal measures.⁶⁾ Only a few studies gave indications that the likelihood of recidivism is greater the longer imprisonment lasts.⁷⁾ Besides these, one or two studies have shown that for special categories of offenders there is less recidivism with some forms of penal measures than with others.⁸⁾ Van der Linden in his study referred to above also demonstrated that differential effects occur. He found a correlation between the nature

^{xx)} I wish to thank Mr. C. Cozijn for his advice regarding the analysis of the data.

of the prison system and whether there was any recidivism or not after discharge. This difference occurs only among those relatively prone to re-offend. Among the less prone no correlation was demonstrable. Fairly recent British research also shows that the nature of treatment during detention has an effect on recidivism after discharge. This outcome held for all categories of offenders applied.⁹⁾ No difference in the effect of various prison regimes could be demonstrated by Fiselier. (open and closed prisons) or by Dijksterhuis (traffic offenders in Bankenbosch and elsewhere).

The present study is intended to help in filling the gap in information on the special deterrent effect of sanctions in the Netherlands. It consists of two parts. Firstly, recidivism rates are presented for persons convicted of some form of crime in 1966. Figures were obtained on the number of such persons reappearing in court within a specific number of years. Besides the recidivism rate for all convicted offenders, attention is also given to that for specific categories. These rates do not give a definitive answer to the question whether the penal measures had a special deterrent effect. They can, however, indicate the upper limit of any special deterrent effects; if the rate is very high, it can be concluded that the special deterrence of the sanction was in any case of limited importance. The overall reconviction rates give no information on any differences in the special deterrent effects of the various penalties.

The second part of the study, therefore, gives a more detailed analysis in which the recidivism rates for the various sanctions are compared.

It must be stated in advance that an irrefutable answer should not be expected to the question whether, from the viewpoint of specific deterrence, one penalty is more effective than another, even in the case of an analysis such as the present one which is based on decisions in sentencing practice. The court's decision to impose one penalty or another in fact depends on all kinds of factors which in turn may be connected with recidivism. As far as these factors are known and as far as information is available, they can be taken into account in analysing the research material. We describe below how we did this. But one can never be sure whether sufficient allowance has been made for the influence of relevant variables. If a definitive

answer is wanted to these questions, an experiment will have to be set up in which it is a matter of pure chance whether a particular punishment is given or not. As such experiments are morally objectionable and therefore are hardly ever made, it seemed important to make the present study in spite of its inherent deficiencies.

2. RESEARCH METHOD

2.1. Sample

The study now reported on is based on a systematic sample of 5% of all cases of serious offences irrevocably disposed in 1966 resulting in convictions. This gave 2,035 convicted offenders.

The sample was taken from the Information Records at the Central Bureau of Statistics,¹⁰⁾ classified quarterly and by district of final jurisdiction. Every twentieth record was selected from the file.

The data on nature of offences, penalties, and offenders' particulars such as sex, age and previous criminal history were taken from these Information Records. The comparison between the sample and the Central Bureau of Statistics population as regards previous criminal history, sex and nature of offence showed that the sample could be regarded as representative of the total number of convictions in 1966.*)

2.2. The criterion for recidivism

The reconviction data were taken from extracts from the General Documentation Files of the Criminal Record Office. In 7% of the cases extracts were no longer available, probably because the persons concerned had died in the meantime. Due to the fire in the Courthouse at Middelburg in 1969, recidivism data for the forty-seven convicted offenders in that district are unobtainable. This left 1,844 persons for the following analysis.

With respect to these persons the records were studied to determine whether, within six years from the recording of the case in question a new case leading to conviction had been entered¹¹⁾. A distinction has been made between general recidivism, i.e. the commission of any offence whatever, and the number of these fresh offences, and special recidivism, i.e. the commission of the same sort of crime. Offences were divided into: offences against property, sexual offences, offences involving violence¹²⁾ and traffic offences. Another distinction used is specific recidivism, i.e. violation of the same section of an act.¹³⁾

*) See Annexes 1a to 1c.

The type of penalty imposed for the first of any subsequent offences was also recorded. In addition it was noted how soon recidivism occurred, i.e. how long after conviction the next case was recorded. The criteria for recidivism used in criminological evaluation studies differ very greatly. One researcher regards all fresh offences -including those not officially recorded- as recidivism while another takes only those resulting in arrest, and yet another only those leading to conviction. Or recidivism is limited to cases leading to re-imprisonment. Further, the length of the follow-up period varies while the moment from which the time is reckoned is not always the same.

These differences should be taken into account when comparing the recidivism rates presented below with those from other sources.

The present study -as was mentioned earlier- takes as a starting-point the date at which the cases in question were recorded at the district public prosecutor's office. The drawback of this is that the period within which those committed to prison could have committed a further offence is in fact shorter than for other offences, the difference being the length of detention (although the commission of crimes during detention is not altogether impossible). Since custodial sentences of longer than a year are not common¹⁴⁾ and in view of the length of the follow-up period (six years), the picture is hardly liable to have been distorted by this, as most recidivism takes place within four years (see below).

3. RESULTS

3.1. The final sample

In retrospect subsequently, it appeared that the year 1966 was not the most suitable year on which to base this study, because in March of that year pardons were granted on a large scale on the occasion of H.R.H. Princess Beatrix's wedding. In consequence, 4% of our research group had their sentences remitted in full and 9% had a part remitted.

Since this study is concerned, inter alia, with comparison of the recidivism rates and the special deterrent effects of various penalties, those offenders whose sentences were remitted in full are disregarded in the following analysis. Those whose sentences were remitted in full as individual pardons are also left out of account. There were about four of them.¹⁵⁾

Convicted foreigners are also left out of the table below, because available information on their previous criminal careers and/or recidivism cannot on the whole be regarded as valid. This left a sample of 1,701 convicted Dutch nationals for analysis.

3.2. Accuracy

The recidivism rates we give relate to a sample for the year 1966. This means in many cases that a percentage that is found does not exactly indicate the percentage in the population of those convicted in 1966. The percentages in the population may be a little higher or lower. How much higher or lower depends, among other things, on the number of cases of a given category included in the sample. The greater the absolute number of cases in the sample, the closer the recidivism rate will be to that for the population.¹⁶⁾

In the presentation of the recidivism rates below this "inaccuracy" will be taken as known. The limits of the recidivism rates in the population will occasionally be stated. In comparing the special deterrent effect of the various sanctions (see section 3.4) the inaccuracy is allowed for in the significance test, a significance level of 5 percent being taken.

3.3. Recidivism

The following sub-sections give a detailed description of the offenders' recidivism. The material is subdivided according to nature of penalty, duration of custodial sentence if any, type of previous offence, and the offenders' sex, age and previous criminal career.

It is stressed that the aim is to describe relationships. There is no intention of explaining or predicting the recidivism.

3.3.1. Recidivism rates and time

First of all, the recidivism rate of the group as a whole was determined. After the six-year follow-up period, a total of 41% of the offenders in the sample proved to have re-offended. That is to say, the comparable rate in the population of offenders convicted in 1966 is, with 9% confidence, between 38.7% and 43.3%. One, two, three and four years after conviction, the rates for the sample were 19%, 27%, 33% and 34% respectively.

It can be deduced from this that the likelihood of recidivism steadily decreases with the lapse of time since the previous offence. This becomes clearer still if we examine for the group re-offending within the six-year follow-up period how long after conviction they first re-offended (i.e. if the fresh offence led to conviction). The findings are given in table 1.

Table 1. Recidivism and lapsed time: percentage of convicted offenders reappearing in court within 1, 2, 3, 4 or 6 years for a serious offence, cumulative for a sample of offenders convicted of serious offences in 1966 (as far as appearing in the General Documentation Files and excluding those pardoned "in full").

	general recidivism (N=613)
within 1 year *)	41%
within 2 years	62%
within 3 years	78%
within 4 years	88%
within 6 years	100%

*) excluding recidivism before trial.

It will be seen that if a convicted person re-offends, he does so in 41% of the cases within one year of conviction, in 61% within two years and in 78% within three years.

The number of "new re-offenders" therefore steadily decreases.

3.3.2. Recidivism rates by type of penalty

Next, the recidivism rates per type of penalty were determined. The results are given in table 2.

These figures show only how many offenders were reconvicted of some serious offence within six years. The fact that out of those sentenced to unconditional imprisonment, for example 60% offended again as compared with "only" 32% of those fined, must not be interpreted as proof that fines are more efficacious. These figures could equally well be taken as proof that persons comparatively prone to re-offend are more likely to be given custodial sentences than the less prone.

This might also be inferred from the fact that not only the percentage of re-offenders but also the number of times an offender re-offends on average varies per type of penalty. In the case of those with an unconditional custodial sentence the average number of fresh offences is three times that for those fined.¹⁷⁾

The question whether one sanction is more efficacious than another, is gone into below, in section 3.4.

(for table 2, see page 9)

Table 2. Recidivism in relation to penalty: number of offenders re-appearing in court within six years after conviction for a serious offence - in a sample of persons convicted of serious offences in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full").

type of penalty	number convicted	general recidivism	
1. conditional fine, reprimand, arrest, etc.	28	10 = (36) %	
2. partly conditional fine	23	2 = (9) %	non-custodial 32% recidivism
3. unconditional fine	702	222 = 32 %	
4. conditional custodial sentence	74	24 = 32 %	
5. conditional custodial sentence and (partly) unconditional fine	351	124 = 35 %	
6. partly conditional custodial sentence (+ unconditional fine)	185	112 = 61 %	
7. unconditional custodial sentence	327	197 = 60 %	custodial 60% recidivism
8. unconditional or conditional detention during government's pleasure	7	5 = 71 %	
9. not known	4		
total number convicted	1701	697 = 41 %	

3.3.3. Recidivism rates by duration of custodial sentence

If the unconditional custodial sentences are broken down according to their duration, the recidivism rates of the comparatively long-termers are found to be generally somewhat higher than for the short-termers. This is shown in table 3.

The recidivism rates for those sentenced to two weeks or less are lower than the average rate (= 60% general recidivism) of offenders with custodial sentences.

The low recidivism rate (44%) is striking for the group with sentences of exactly two weeks. In a further breakdown by nature of offence (under the Criminal Code or the Road Traffic Act) a comparatively low rate can be found only within the group sentenced for traffic offences.*)

Table 3. Recidivism in relation to duration of unconditional custodial sentence: number of offenders reappearing in court within six years after conviction for a serious offence - in a sample of persons convicted of serious offence in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full").

duration of unconditional (part of) custodial sentence	number convicted	general recidivism
less than 2 weeks	83	44 = 54%
2 weeks	99	44 = 44%
more than 2 weeks to 1 month	47	29 = 62%
1 to 3 months	94	66 = 70%
3 to 6 months	84	58 = 69%
6 months to 1 year ^{a)}	68	44 = 65%
1 to 3 years ^{b)}	33	23 = 70%
3 years or more ^{b)}	4	1 = (25%)
total custodial sentences	512	309 = 60%

a) some of these offenders may have been released conditionally after 6 to 9 months.

b) the duration of imprisonment may have been reduced by 1/3 through conditional release.

As was stated with respect to the difference in recidivism rates by types of penalty, it must not be concluded from these figures that a comparatively long term of imprisonment increases the likelihood of recidivism, since there is quite likely to be a "sentencing practice

* See annexes 2a and 2b.

artifact", i.e. that the courts sentence very recidivism prone-offenders to relatively long terms of imprisonment more often than those who are judged less prone.

It is moreover striking that those detained for a year or longer have the highest recidivism rate. In view of the period within which these people had the opportunity to re-offend, lower rates would have seemed more likely.

3.3.4. Recidivism rates by type of offence

It is interesting to see whether the likelihood of being reconvicted differs according to the type of offence of which he or she has been convicted. Of particular interest is how often sentences are given for the same or similar type of offence. An endeavour was made to gain an insight into this.

The classification of serious offences was based on the distinction used by the Central Bureau of Statistics for its Crime Statistics. The respective main categories are offences against property, offences involving violence and sexual offences (all referred to in the Criminal Code), and also traffic offences. The other offences are not included in the list; in view of the small number of these (eighteen in total), the recidivism rates mean little (as we were dealing with a sample).

It should of course be realised that this classification of offences is rather arbitrary. Offences against property, for instance, include robbery with violence. This could equally be regarded as an offence involving violence. Another example is rape, one of the sexual offences that could also be classified as a violence offence. Owing to the classification adopted the results may be somewhat distorted.

Table 4. Recidivism in relation to nature of offence number of offenders reappearing in court within six years after conviction for serious offences - by categories of offences; in a sample of persons convicted of serious offences in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full".

type of offence	number convicted	of which		
		general recidivism	special recidivism	specific recidivism
property offences	743	42%	31% +	16%
violence offences	396	42%	21% +	10% -
sexual offences	89	44%	29%	22% +
traffic offences	456	38%	26%	17%

Table 4 shows that the differences in general recidivism rates as between property offenders, violence offenders and sexual offenders are nil. Of those convicted of "property offences", 42% were reconvicted, of those convicted of "violence offences" likewise 42% and of those convicted of sexual offences 44%. Those convicted of traffic offences show a somewhat lower general recidivism rate, i.e. 38%. The differences as compared with the other convicted offenders is not statistically significant, however. That is to say, that in all likelihood, this is due to coincidence.¹⁸⁾

The percentage of offenders reconvicted of a similar offence (special recidivism) is found to be significantly higher among the "property offenders" (31% special recidivism) than among the others convicted of offences in the Criminal Code.¹⁹⁾ In the case of "violence offenders" the percentage of special recidivists is significantly lower than among the other offences.²⁰⁾

Also in the case of specific recidivism (fresh offences under the same section of an act), "violence offenders" have the relatively lowest rating with 10% specific recidivism compared with 16% and 22% for "property offenders" and "sexual offenders" respectively.²¹⁾

Conversely, the number of specific recidivists among "sexual offenders" is significantly higher than for the other offenders convicted under the Criminal Code.²²⁾ The "sexual offenders" category consists mainly

of persons convicted of indecency (section 239 Criminal Code) and of sexual offences against minors (sections 247 and 249 Criminal Code). Within the available material, a further specification can be made on the basis of the nature of offence. The recidivism rates for some of the most common offences are given in Table 5. In this sub-analysis, the specific recidivism rates in particular are informative.

Table 5. Recidivism in relation to nature of offence: number of offenders reappearing in court within six years after conviction for a serious offence - by offences; in a sample of persons convicted of serious offences in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full").

type of offence	number convicted	of which		
		general recidivism	special recidivism	specific recidivism
common theft	329	36%	28%	18%
theft by multiple offenders	131	47%	36% +	14%
burglary	113	68% +	53% +	27%
common assault	151	40%	25%	16%
destruction of property	83	51%	31%	14%
driving while intoxicated	136	37%	29%	22% +
failing to stop after an accident	123	33%	24%	7%

This table shows that the highest proportion of re-offenders is among persons convicted of burglary. For general recidivism (68%), special recidivism (53%) and specific recidivism (27%) this is significantly higher than for those convicted of other offences in the Criminal Code.²³⁾ Besides this, specific recidivism is also relatively high among persons convicted of driving while intoxicated (section 26 Road Traffic Act). The difference compared with other offenders is statistically significant.²⁴⁾ Among those convicted of failing to stop after an accident (section 30 Road Traffic Act), the likelihood of conviction for the same offence, however, is found to be significantly smaller than for other offenders.²⁵⁾ Lastly, it may be mentioned that the likelihood of reconviction for a similar offence (special recidivism) among those convicted of theft committed by multiple offenders is significantly greater than for those

convicted of another offence in the Criminal Code.²⁶⁾ Otherwise there are no statistically significant differences in recidivism rates. That is to say, no significance should be attached to them because there is every chance of their being coincidental. As regards the recidivism rates presented here it might be commented that the differences noted in special recidivism and specific recidivism are due (partly) to the practice of waiving prosecution. Prosecutions for some offences is known to be waived comparatively more than for others. If the cases in which prosecution is waived are also included as "recidivism", the overall pattern hardly changes however. This, of course, has the effect of somewhat raising the recidivism rates for all categories of offenders. Moreover, the rate increases in one category, that of persons convicted of property offences, more than in the others.²⁷⁾ As already stated, this does not materially change the ultimate result.

3.3.5. Recidivism rates by offenders' sex

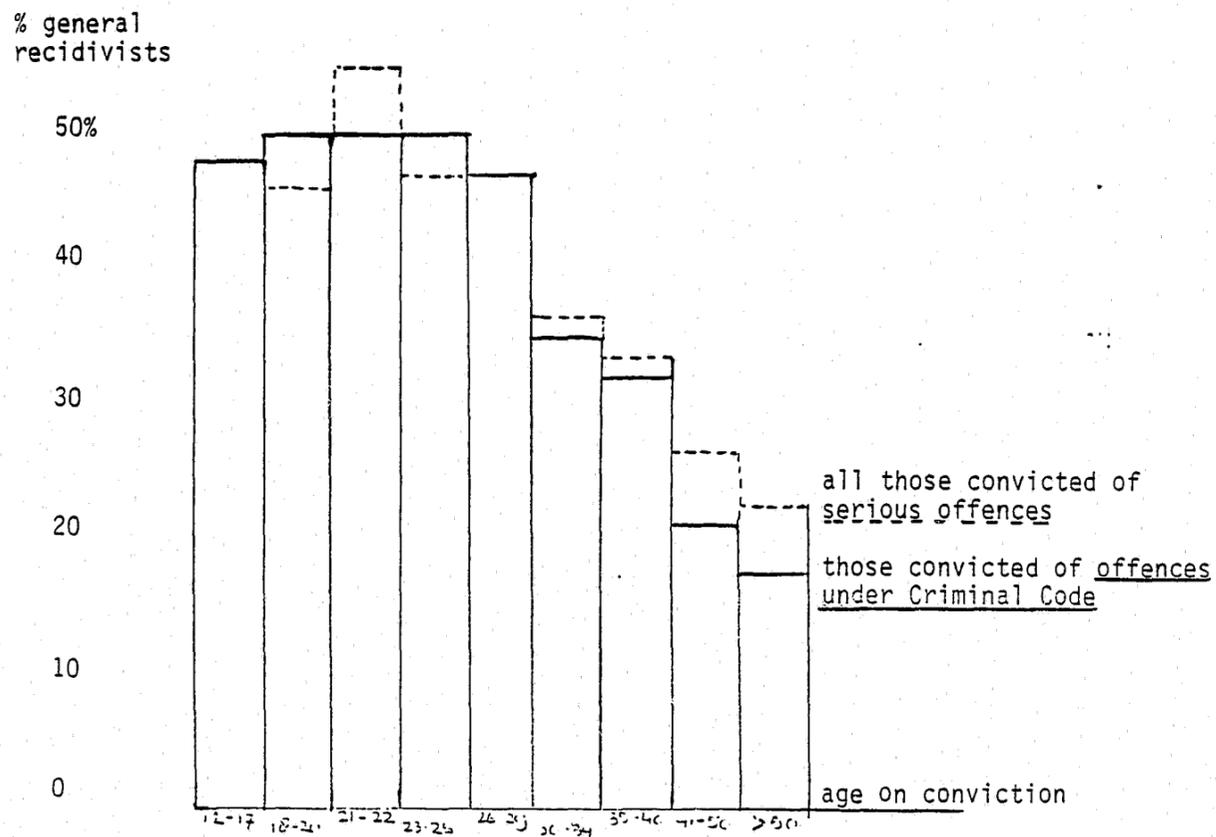
It is well known that the number of women brought before the courts for committing offences is much lower in proportion than the number of men. In 1966, for example, the number of persons convicted of serious offences was 100 per 100,000 inhabitants aged 15 to 69 in the case of women, and 577 in the case of men.²⁸⁾ In addition, women are sentenced to imprisonment less often than men, whatever the offence.²⁹⁾ Our study shows that the number of women re-offending after a conviction is also much lower by comparison than the number of male re-offenders. The proportions for general recidivism in this sample are 13% for women and 44% for men. The comparable recidivism rate, with 95% confidence, in the population of women convicted in 1966 is between 7.8% and 17.6% and of men between 41.8% and 46.8%. Per category of offences and within the group of first offenders, we find this difference in recidivism rates as between men and women nearly everywhere. For instance, the general recidivism rate for first offenders convicted of common theft is 10 (+ 6.6)% for women and 34 (+ 8.2)% for men.

3.3.6 Recidivism rates by offenders' age

The correlation between age and recidivism known from many studies³⁰⁾ was also evident from the present study, as can be seen from Figure 1. The likelihood of reconviction is generally slighter the older the offender is.

The graph shows some fluctuations in younger age groups (the under thirties). These fluctuations in recidivism rates are caused by the traffic-offender group which as regards age shows a divergent recidivism pattern compared with other offenders.³¹⁾ If only persons convicted of offences in the Criminal Code are considered, the curve is much more even. This is also shown in Figure 1. Moreover, it is then clear that recidivism rates for these "common" offenders are highest in the 18 to 25-year category. After 30 the likelihood of recidivism gradually decreases.

Figure 1. Recidivism in relation to age: percentage of offenders by age groups reappearing in court within six years after conviction for a serious offence; in a sample of persons convicted of serious offences in 1966 (as far as appearing in the General Documentation Files and excluding those pardoned "in full").



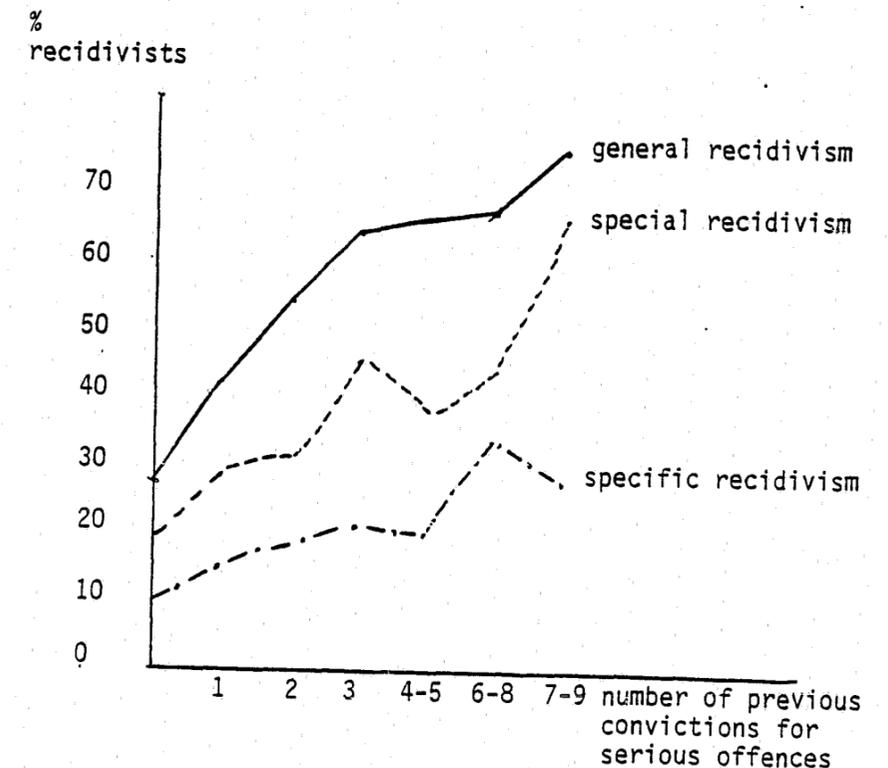
3.3.7 Recidivism rates by offenders' previous criminal career

It has gradually become obvious that the likelihood of re-conviction is greater the more often the offender has appeared in court. It has not yet been adequately examined whether this is the result of selective investigation and prosecution practice.

We examined whether this relationship between previous criminal career and re-offending or not also existed in our sample.

The findings are shown in Figure 2.

Figure 2. Recidivism in relation to number of previous convictions: percentage of offenders reappearing in court within six years after conviction for serious offences; in a sample of persons convicted of serious offences in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full").



This graph clearly shows that the likelihood of recidivism is greater the more often the offender has already been convicted of a serious offence. Of those who were first offenders in 1966, 28% (+ 2.9) re-

appeared in court within six years for having committed some serious offence (general recidivism); of the group who already had more than eight previous convictions, the general recidivism rate is 77% (+ 11.3).

3.4 Special deterrence

In this section an endeavour is made to answer the question whether the special deterrent effects of one type of penalty are greater than those of others. For this purpose, a comparison was made between all custodial sentences on the one hand and all non-custodial ones on the other. Custodial sentences include both completely and partly unconditional custodial sentences; the non-custodial category consists of all fines and completely conditional custodial sentences. The latter two penalties are often combined.

As we have seen above (in Table 3), the recidivism rates of the group with unconditional custodial sentences are higher than for the group fined or given conditional custodial sentences. It has already been pointed out that it must not be concluded from this that a fine is more effective or has a less unfavourable effect than a custodial sentence. This would be the conclusion if the group sentenced to a fine was equivalent to that given custodial sentences. It will be clear in advance that this is not the case, and this was borne out by analysis of our material. Persons fined include, for instance, more women, more first offenders (at least on account of serious offences), more persons over 40 and rather more juveniles (under 20), and a comparatively large number of persons convicted of comparatively minor offences, such as common theft and common assault.³²⁾

Prediction studies have shown the likelihood of recidivism to be related to various background variables. The variable of sex, age and previous criminal career almost invariably prove to be relevant³³⁾. Our material, too, contains indications in this direction. As stated, these variables also prove to be related to the penalty.

If the effects of the various penalties are to be compared then - as stated in the introduction - the influence of such "interfering variables" must be taken into account. This was done in the present study through calculation of partial correlations.

In the partial correlation calculation, three background variables are

kept constant each time, namely the variables already referred to: sex, age and number of previous convictions for serious offences (i.e. r-partial is of the third order). These three variables were chosen after a preliminary research that was imperative because previous criminal careers were measured in different ways in the present study. Thus the number of previous convictions for serious offences, the total duration of previous unconditional custodial sentences, and so on were determined. Some of these variables proved to be closely interrelated. By means of step-by-step regression analysis, it was determined which of these variables, including age and sex, gave the maximum prediction of recidivism. They were found to be: 1. number of previous convictions for serious offences, 2. age and 3. sex.³⁴⁾ It has also been shown above that the percentage of re-offenders varies with the type of offence of which they had been convicted.

In order to preclude any distortion owing to type of offence, the analyses were made each time within several categories of offences separately. One such category is persons convicted of driving while intoxicated. The analysis of this category boils down to a replication of Steenhuis's study.³⁵⁾ The advantage of this is on the one hand that Steenhuis's findings are checked as regards the effects of sentencing practice and on the other that with identical findings for this category of offenders those for the other categories then become more valid.

As noted earlier, it remains questionable with such analyses whether enough allowance has been made for "interfering variables". As far as an offender's proneness to re-offend can be gathered from his or her penal record, age and sex, we were able to make a correction. In forming their judgment and deciding the (measure of) punishment, the courts in certain cases will probably (and additionally) base this on other characteristics of the offender from which they believe they can infer his proneness to re-offend. For example: the offender's attitude towards his offence, his job situation and so on. If the court makes an unfavourable assessment of such circumstances in the light of the likelihood of recidivism, it may tend to impose comparatively severe penalties and vice versa. Assuming the court on the whole assesses the likelihood of recidivism correctly this means that offenders who have comparatively severe punishments will re-offend more than those

sentenced to milder penalties, whereas whether they re-offend or not is not in fact determined by the nature or severity of the penalty.

We were unable to make any correction to allow for the influence of such factors. The findings should, therefore, be interpreted with some caution.

The first findings from the correlation calculations are summarized in Table 6.

Table 6. Correlation between type of penalty (non-custodial as against custodial) and general recidivism, according to offence of conviction in 1966, in a sample of persons convicted of serious offences in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full").		
convicted in 1966 of	r	r-partial (3rd order)
property offences (N = 743)	.36	.22
violence offences (N = 396)	.28	.18
sexual offences (N = 88)	.16 NS	.08 NS
traffic offences (N = 454)	.19	.13

Table 6 shows first of all that in nearly all cases the correlation between type of penalty and recidivism is in fact not as close if the background variables of sex, age and previous criminal career are taken into account. This means that these variables partly explain the difference in recidivism between custodial and non-custodial sentences. In the "sexual offenders" group, the correlation is not significant either before or after "correction". For the other three categories of serious offences, although the single correlation coefficient is statistically significant and though there is also a statistically significant ratio after "correction", the correlation is very weak. Thus the nature of the penalty for property offenders explains only 4.7% for violence offenders 3.3% and for traffic offenders 1.8% of the variance in recidivism.³⁶⁾ This suggests that recidivism is determined almost entirely by factors other than type of penalty. The same applies if only new convictions for a similar offence are

considered (special recidivism criterion).

In this case the partial correlation coefficients for the respective groups of offenders are .24, .12, -.03 and .07.

It should moreover be noted that all correlation coefficients except one are positive. That is to say, as far as there is any relationship, the likelihood of recidivism is greater for offenders receiving unconditional custodial sentences than for those sentenced to non-custodial penalties.

In order to examine whether the duration of custodial sentences is responsible for this positive relationship, two additional analyses were made. In the first, only offenders with custodial sentences not exceeding fourteen days were compared with those receiving non-custodial penalties. Next, only persons sentenced to not more than one month in custody were considered. The findings are summarized in Table 7.

Table 7. Correlation between type of penalty (non-custodial as against custodial for a specific term) and general recidivism according to offence of conviction in 1966, in a sample of persons convicted of serious offences in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full"). - partial third-order correlation coefficients.			
	non-custodial as against:		
	14 days or less custodial	1 month or less custodial	totally custodial
property offences	.08	.15	.22
violence offences	.14	.19	.18
sexual offences	.11 NS	.11 NS	.08 NS
traffic offences	.08 NS	.14	.13

These figures show that on the whole the correlation between type of penalty and recidivism is closer according as the custodial sentence is longer. In the case of imprisonment for fourteen days or less there is no question at all of any difference in effects on recidivism of the type of penalty in two of the four groups of offenders, while in the other two the correlation is very slight and in any case not of essential significance.

We made these latter analyses again within several more homogeneous categories of offenders, such as persons convicted of common theft and of driving while intoxicated. The results are given in Table 8.

Table 8. Correlation between type of penalty (non-custodial as against custodial for a specific term) and general recidivism according to offence of conviction; persons convicted of serious offences in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full"); partial third order correlation coefficients.

convicted in 1966 of:	non-custodial	as against	
	14 days or less custodial	1 month or less custodial	totally custodial
(a) common theft	.03 NS	.19 (p=.001)	.34 (p=.001)
(b) theft by multiple offenders	-.06 NS	-.06 NS	.13 NS
(c) burglary	.13 NS	.16 NS	.08 NS
(d) common assault	.35 (p=.001)	.34 (p=.001)	.37 (p=.001)
(e) driving while intoxicated *	.09 NS	.15 (p=.047)	.11 NS
(f) failing to stop after an accident	-0.7 NS	-.00 NS	-.02 NS

*) since no women are in the records for this offence the second-order partial correlation coefficient is stated.

For four of the six offenders no significant correlation is found between type of penalty and recidivism. This applies to those convicted of theft by multiple offenders, burglary, driving while intoxicated and failing to stop after an accident. It makes no differences whether only short custodial sentences or longer ones as well are considered. Our findings for the driving-while-intoxicated category therefore correspond to Steenhuis's. As stated, this increases the validity of the results. As to persons convicted of common theft and the category consisting of those convicted of common assault, however, there is a significant correlation: the partial correlation coefficients are +.32 and +.37 respectively. This means that the likelihood of recidivism by persons with custodial sentences is greater than with those given non-custodial sentences. In the group convicted of common assault, the duration of unconditional

custodial sentences has hardly any influence on the strength of the relationship.

In the "common theft" group the duration of custodial sentences is relevant: persons given unconditional custodial sentences of fourteen days or less re-offend neither more nor less than those with non-custodial sentences. There is a greater likelihood of recidivism after a custodial sentence only if it lasts longer than fourteen days. This is a remarkable result. For persons committing comparatively major offences such as theft by multiple offenders and burglary, the special deterrent effect of custodial and non-custodial sentences is the same, while for persons convicted of more minor offences such as common theft and common assault, an unconditional custodial sentence proves to have less special deterrence than a non-custodial one.

The explanation might be that the subsequent conduct of those committing major offences is not influenced at all in general by the severity of the penalty, whereas a custodial sentence in some cases has an adverse on persons who have committed comparatively less serious offences. In the analyses made so far, all non-custodial sentences have been set against all custodial ones. The former category comprises both unconditional fines and conditional sentences, the latter not only completely unconditional but also partly conditional custodial sentences. This classification has been followed because there were not enough of the various penalties in all offence categories for a more detailed subdivision to be made. Within some offence categories the number of unconditional fines and unconditional custodial sentences was large enough, however, for meaningful comparison of the effects of these two types. This relates to the groups consisting of those convicted of common theft, common assault and theft by multiple offenders. The partial correlation coefficients work out successively at +.32, +.35 and +.18 (for general recidivism). The first two of these are statistically significant. That is to say, persons convicted of common theft and common assault are more liable to re-offend after conditional custodial sentences than after unconditional fines. For those convicted of theft by multiple offenders no correlation between type of penalty and recidivism can be found in this case either.

4. CONCLUSIONS

In the first part of this report we showed that 41% of persons convicted in 1966 of serious offences reappeared in court for committing an offence within six years. In the category convicted of burglary the proportion of re-offenders was as high as 68%. It furthermore became clear that the proportion of re-offenders among those given wholly or partly unconditional custodial sentences was 60%.

These results decide nothing about the question whether penal sanctions in general and custodial sentences in particular have a special deterrent effect. They do, however, suggest that one should not expect too much of the special deterrent effects of penal measures. A further analysis, which took into account offenders' characteristics such as sex, age and previous criminal career, showed that it was reasonable to assume that the special deterrent effects of unconditional custodial sanctions on the whole are not greater than non-custodial penalties such as fines and conditional sentences. This applies particularly to custodial sentences of fourteen days or less. On the other hand, there are indications that from the viewpoint of special deterrence custodial sentences of over one month have an adverse effect upon persons convicted of common theft. This applies equally to those convicted of common assault, for whom in fact even shorter custodial sentences are apparently conducive to recidivism. But it is not entirely impossible that the greater likelihood of recidivism found for offenders with comparatively severe sentences is not attributable to these sentences but that it was the very reason why the severe sentences were imposed.

As far as any correlation has been shown between type of penalty and recidivism, we have regarded this as an indication that custodial sentences tend to increase the likelihood of recidivism rather than reduce it. These findings could, however, also be interpreted as indicating that non-custodial sentences tend to lessen recidivism. The method of research used is unsuitable for determining whether a given penalty encourages recidivism or in fact discourages it, or whether the penalty has no influence at all on the tendency to re-offend or not. All that can be established in this way is whether the penalties compared differ in effectiveness.

To ascertain the absolute effectiveness of a penalty, experiments in imposing it would have to be made. This means that one group of offenders would have to receive it, while a comparable group would be exempted from it. If this comparable group, as has been done in this study as it were, is punished in another way, however, neither the absolute influence of the "experimental" penalty nor that of the "substitute" penalty can be determined. It can only be judged whether the two differ in their effects.

In the coming year a report will be published on research into the absolute effectiveness of short custodial sentences (fourteen days or less), making use of the fact that in 1966 a large group of offenders were pardoned on the occasion of H.R.H. Princess Beatrix's wedding. Lastly, it should be noted that in view of the outcome of this study, the courts must not necessarily conclude that they ought to give preference to not imposing custodial sentences, and impose fines or conditional sentences instead. Special deterrence is simply not the only purpose of criminal law. General deterrence, solution of conflicts and retribution are other goals of penal measures. Whether the imposition of custodial sentences is the proper way to attain these goals is a different question.

Annex 1a.

Comparison of composition of Central Bureau of Statistics (C.B.S.) population and the sample: Previous criminal career, sex and nature of offences; 1966.		
	C.B.S.-population *) percentages	Sample percentages
<u>no previous conviction for serious offences</u>	54	55
<u>males</u>	89	90
<u>nature of offence</u>	(100 = 41426 convicted offenders)	(100 = 2035 convicted offenders)
offences against public order and authority	5	5
sexual offences	5	5
offences against life and the person	13	13
property offences	41	42
malicious damage	6	6
traffic offences	28	28
economic offences	0	0
other	1**)	1

*) Source: Central Bureau of Statistics, Crime Statistics 1966, tables 1 and 2.

***) Offences against public order 75 convicted offenders, other offences under Criminal Code 106, under other Acts 290.

Annex 1b.

Comparison of composition of Central Bureau of Statistics (C.B.S.) population and sample by type of penalty - persons convicted of serious offences in 1966.				
	C.B.S. population *)		Sample	
	absolute number	percentage	absolute number	percentage
<u>imprisonment (only)</u>				
- unconditional	8,047	19	418	21
- partly conditional	4,146	10	201	10
- conditional	1,551	4	63	3
<u>detention</u>				
- unconditional	135	0	6	0
- (partly) conditional	6	0	-	-
approved school	927	2	39	2
<u>fine</u>				
- unconditional	17,231	42	833	41
- partly conditional	758	2	32	2
- conditional	154	0	6	0
- with conditional custodial sentence	8,063	19	389	19
other	408	1	48	2
Total	41,426	100	2,035	100

*) Source: C.B.S. Crime Statistics 1966, Statement 16 + Table 2.

(Note: relates in fact to number of convictions and not number of convicted offenders).

Annex 1c

Comparison of Central Bureau of Statistics (C.B.S.) population and sample by duration of unconditional (parts of the) custodial sentences - persons convicted of serious offences in 1966).				
duration of imprisonment	C.B.S. population *)		Sample	
	absolute number	percentage	absolute number	percentage
less than 1 month, of which: 6,229		51	308	49
- less than 2 weeks			113	18
- 2 weeks			138	22
- more than 2 weeks to 1 month			57	9
1 to 3 months	2,057	17	1021	16
3 to 6 months	1,875	15	95	15
6 months to 1 year	1,417	12	77	12
1 year	181	1	10	2
more than 1 year to 3 years	379	3	30	5
3 years or more	55	0	5	1
Total	12,193	100	627	100

*) Source: C.B.S. Crime Statistics 1966, Statement 17.

Annex 2a.

Number of ex-prisoners reappearing in court within 6 years after conviction for a serious offence, by duration of imprisonment and nature of offence - in a sample of offenders convicted in 1966.				
duration of imprisonment	general recidivism		special recidivism	
	convicted of offences under Criminal Code N=324	convicted of offences under Road Traffic Act N=166	convicted of offences under Criminal Code N=324	convicted of offences under Road Traffic Act N=166
less than 2 weeks	52%	54%	35%	34%
2 weeks	63	35	47	24
more than 2 weeks to 1 month	(78)	52	(33)	38
1 to 3 months	72	64	60	48
3 to 6 months	68	(100)	49	(100)
6 months to 1 year ^{a)}	65	(0)	48	0
1 to 3 years ^{b)}	70		61	
3 years or more ^{b)}	(25)		(0)	
Total	66%	48%	49%	33%

a) some of these convicted offenders may have been conditionally released after 6 to 9 months.

b) the time may have been reduced by one-third owing to conditional release.

Annex 2b.

Number of ex-prisoners reappearing in court within 6 years after conviction for committing a serious offence, by duration of imprisonment and nature of offence - in a sample of offenders convicted in 1966						
duration of imprisonment	property offences			violence offences		
	total number	of which		total number	of which	
		gen.rec.	spec.rec.		gen.rec.	spec.rec.
less than 2 weeks	24	38%	33%	15	(73)%	(40)%
2 weeks	21	57	43	8	(75)	(50)
more than 2 weeks to 1 month	12	(83)	(42)	6	(67)	(17)
1 to 3 months	40	77	70	17	(65)	(41)
3 to 6 months	52	71	54	9	(78)	(44)
6 months to 1 year ^{a)}	53	72	55	5	(40)	(20)
1 to 3 years ^{b)}	26	69	65	4	(100)	(75)
3 years or more ^{b)}	1	(0)	(0)	3	(33)	(0)
not known				1		
Total	229	68%	54%	68	69%	39%

a) some of these convicted offenders may have been conditionally released after 6 to 9 months.

b) the time have been reduced by one-third owing to conditional release.

Annex 2c.

Recidivism in relation to type of penalty: number of convicted offenders reappearing in court within 6 years after conviction for committing a serious offence in a sample of offenders convicted of a serious offence in 1966 (as far as appearing in General Documentation Files and excluding those pardoned "in full").		
type of penalty	number convicted	general recidivism
unconditional sentence	1029	419=41%
(partly) conditional sentence, including	661	271=41%
- general condition only	508	193=38%
- special condition	77	42=55%
- special condition+ probation	76	37=49%
Total number convicted	1690	691=41%

Annex 3.

Results of step-by-step regression analysis with eight background variables, with general recidivism (number of new convictions for serious offences) as independent variable; in a sample of offenders convicted of serious offences in 1966 (N=1690).

	R ² -change	R ²	standard partial regression coefficient
1. number of previous convictions for serious offences	.115	.115	.485
2. age	.062	.177	-.225
3. number of previous sentences to unconditional imprisonment	.006	.183	.108
4. sex	.003	.186	.066
5. interval between first and present conviction	.002	.188	.082
6. number of previous sentences to unconditional fine	.001	.190	-.138
7. total duration of previous custodial sentences	.001	.190	-.079
8. total amount of previous fines	.001	.192	.058

Annex 4.

Correlation between type of penalty (unconditional fine as against unconditional custodial sentence) and recidivism; in a sample of offenders convicted of serious offences in 1966, by offence of 1966 conviction; partial correlation coefficients.

		general recidivism	special recidivism	specific recidivism
common theft	(N=170)	.32 (p=.001)	.29 (p=.001)	.21 (p=.003)
theft by multiple offenders	(N= 58)	.18 NS	.14 NS	.19 NS
common assault	(N=114)	.35 (p=.001)	.24 (p=.001)	.35 (p=.001)

NOTES

1. See, for instance, Heijder, A., Geldboete of korte vrijheidsstraf? Nederlands Juristenblad, vol. 49, no. 42, December 1974, pp. 1337-1347.
2. Steenhuis, D.W. Rijden onder invloed. Assen, 1972.
3. Fiselier, J.P.S. Open gesticht en recidive. Report by Institute of Criminology of Catholic University Nijmegen, 1969.
4. Dijksterhuis, F.P.H. De gevangenis Bankbosch II. Assen 1973.
5. Linden, B. van der. Regiem en recidive. The Hague, 1978.
6. See, e.g. Wilkins, L.T. Evaluation of penal measures. New York, 1969 and d'Anjou, L.J.M., G. de Jonge and J.J. van der Kaaden, Effectiviteit van sancties. Report Ministry of Justice, WODC, 1975.
7. Jaman, D.R., R.M. Dickover, and L.A. Bennet. Parole outcome as a function of time served. in: The British Journal of Criminology, vol. 12, no. 1, January 1972, pp. 5-34.
8. See, for instance, Palmer, T.B. California's community treatment program for delinquent adolescents. in: Journal of research in crime and delinquency, vol. 8, January 1971, pp. 74-92.
9. Shaw, M. Social work in prison. London, 1974, Home Office Research Studies, 22.
10. As from 1974 the Information Records were replaced by Verification and Information Records.
11. The Criminal Records extract states the date the cases are entered at the Public Prosecutor's Office, and not the date the offence was committed. A recorded case may therefore relate to an offence committed prior to registration of one recorded previously, in our case therefore prior to the case we have taken as our basis. This is disregarded for present purposes.
12. We define offences involving violence as: offences against public order and authority, offences against life and the person, and malicious damage.
13. This applies if the classification of the fresh offence is the same as that of the 1966 conviction, e.g. common theft in both cases (section 310 Criminal Code) or common assault (section 300, paragraph 1, Criminal Code).
14. Of the 1844 persons referred to above 1.7% had been sentenced to unconditional imprisonment for more than one year.
15. In fact the findings presented below would not materially differ if those pardoned (collectively and/or individually) were included.

16. For this sampling and with this population the margin within the percentage in the population lies is equal with 95% confidence to $\pm 1.966 \sqrt{\frac{2N_p - N}{N N_p - 1}}$, N being the size of the population and N the size of the sample (as this was sampling without replacement.)
17. The average number of fresh offences (general recidivism) is: for those sentenced to (a) unconditional fine 0.6 (s=1.2); (b) conditional custodial sentence 0.9 (s=1.9); (c) conditional custodial sentence (partly) unconditional fine 0.7 (s=1.5); (d) partly conditional custodial sentence (+ unconditional fine) 1.4 (s=1.8); and (e) unconditional custodial sentence 1.8 (s=2.3).
18. Chi-square = 1.73; df = 1; NS
In the significance test, the significance level of 5% was constantly used.
19. Chi-square = 10.76; df = 1; p .001
20. Chi-square = 12.72; df = 1; p .001
21. The Chi-squares are 6.92 and 10.12 respectively; df = 1; p = .01 for both
22. Chi-square = 5.05; df = 1; p .05
23. The Chi-squares are respectively 34.86; 38.51 and 17.10; df = 1; p .001 in all cases.
24. Chi-square = 5.68; df = 1; p .02
25. Chi-square = 6.20; df = 1; p .02
26. Chi-square = 4.40; df = 1; p .05
27. The relevant data are not embodied in this report.
28. C.B.S., Criminele Statistiek, 1966, statement 40.
29. see Werff, C. van der. De toepassing van de boete bij misdrijven, in: Eindrapport van de Commissie Vermogensstraffen, The Hague, Dutch Government Printing Office, 1972, pp. 111-134.
30. see, for example, Wilkins, L.T. Evaluation of penal measures, New York, 1969.
31. see also Buikhuisen, W. and Jac. van Weringh. Voorspellen van recidivisme, in: Buikhuisen, W. et. al, Alcohol en Verkeer, Meppel, Boom, 1968, pp. 128-129.
32. see Werff, C. van der. 1972, op.cit., pp. 111-134.
33. see, for example, Nagel, W.H. Het voorspellen van crimineel gedrag. The Hague, 1965.
34. The results of the step-by-step regression analysis are given in Annex 3.

35. see note 2.
36. percentage explained variance = $r^2 \times 100$.