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### Citation

Ginneken, E. F. J. C. van. (2024). The victim-offender overlap in prisons and associated challenges for prison managers. In T. Daems & E. Goossens (Eds.), *Palgrave Studies in Victims and Victimology* (pp. 89-114). Cham: Palgrave Macmillan.  
doi:10.1007/978-3-031-54350-0\_4

Version: Publisher's Version

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Downloaded from: <https://hdl.handle.net/1887/4106825>

**Note:** To cite this publication please use the final published version (if applicable).



# The Victim-Offender Overlap in Prisons and Associated Challenges for Prison Managers

Esther F. J. C. van Ginneken

This book is testament to the fact that imprisonment cannot fully guarantee incapacitation: offending and victimisation do not necessarily end upon entry into prison. In-prison offending may include, for example, assaults on staff and fellow incarcerated individuals, contraband trading and even continued criminal activity that extends beyond the prison walls. An impressive body of research has developed on the predictors of offending and misconduct in prison (Baggio et al., 2020; Beijersbergen et al., 2015; Berghuis et al., 2021; Bosma et al., 2020; Camp et al., 2003; Drury & DeLisi, 2010; Gaes et al., 2002; Lahm, 2016;

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This publication is part of the project 'The Social Ecology of Violence in Prisons', with project number VI.vidi.211.003 of the research program NWO Talent Program Vidi, which is financed by the Dutch Research Council (NWO).

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The original version of this chapter was previously published without open access. A correction to this chapter is available at [https://doi.org/10.1007/978-3-031-54350-0\\_8](https://doi.org/10.1007/978-3-031-54350-0_8)

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Logan et al., 2022; Steiner et al., 2014) and on the predictors of victimisation (Caravaca-Sánchez & Wolff, 2017; Caravaca-Sánchez et al., 2019; Goossens et al., 2023; Pérez et al., 2010; Reyns et al., 2018; Steiner et al., 2017; Wolff et al., 2009). These parallel lines of research have not been connected as well as they should be; it is often not recognised that victims may become offenders, offenders may become victims or the roles of people in an incident may be ambiguous (Edgar & O'Donnell, 1998). While offending has been considered as a predictor of victimisation in earlier work (for a review, see Steiner et al., 2017), only recently have prison researchers developed and tested specific theories about the victim-offender overlap (Daquin & Daigle, 2021; Kuo et al., 2022; Martens et al., 2021; Toman, 2019). This contribution discusses what is known about the victim-offender overlap in prisons, and how we can understand this from a theoretical point of view. It will be shown that the key to understanding the causes of violence—and the related victim-offender overlap—is the context in which it takes place: one category of assaults can be understood as an emotional or situational phenomenon, and another category of assaults can be understood as an organised and more deliberate phenomenon, linked to the illicit economy. In the second part of this chapter, the victim-offender overlap related to the second category will be examined from a prison-management perspective, using data from interviews with Dutch prison managers.

## 1 The Victim-Offender Overlap: Theory and Prior Research

Victims and offenders are not mutually exclusive categories; they may be related in various ways, as is summarised in Table 1. In the first situation, individuals are both victim and offender in the same incident, for example a prisoner who starts a fight may also be physically harmed in the same fight. In these cases of mutual assault, the roles of victim and offender are often ambiguous (Edgar & O'Donnell, 1998). The victimisation and offending take place in the same incident, and are therefore (nearly) simultaneous. In the second situation, the experience or threat of

victimisation may be the motive for later offending, and vice versa: an act of offending may also be followed by retaliation and, thus, victimisation. In these cases, the roles are reversed. The victimisation and offending take place in separate—but linked—incidents. In the third situation, individuals are victim and offender in separate—not linked—incidents; for example, a person assaults someone, and is victimised in an unrelated incident by someone else. In the fourth situation, offending and victimisation are tied to roles in the illicit economy; for example, a person hiding contraband in their cell (offender) is doing so under duress (victim). Thus far, little is known about explanations and predictors for these different categories of the victim-offender overlap, although we know that the overlap exists.

Traditionally, adaptation to imprisonment, including behaviour of incarcerated individuals, has been explained using two complementary perspectives: importation and deprivation theory. Deprivation theory focuses on characteristics of incarceration as determinants of prisoner adaptation, and is often linked to the pains of imprisonment described by Sykes (1958). Later studies found that various prison and regime characteristics, including security level, opportunities for programming and recreation, and crowding, can be used to explain differences in offending (Baggio et al., 2020; Clark & Rydberg, 2016; Gaes & Camp, 2009; Lahm, 2009; Pompoco et al., 2017; Tahamont, 2019), and thus logically also victimisation.

Risks of both offending and victimisation may increase as the environment becomes more hostile or fails to offer meaningful activities to keep incarcerated individuals occupied. Importation theory holds that behaviour is largely a product of pre-existing values, traits, experiences and ideologies of individuals before entering prison (Irwin & Cressey, 1962). In relation to offending and victimisation, the theory suggests that incarcerated individuals are predisposed to behave in certain ways during incarceration, which shapes their risks of becoming offender or victim. Relevant ‘imported’ predictors of in-prison offending are age, race, gang affiliation, marital and parental status, offence and incarceration history and substance abuse history (DeLisi et al., 2011; Jiang & Fisher-Giorlando, 2002; Steiner et al., 2014; Walters & Crawford, 2013). Victimisation vulnerability, on the other hand, has been linked to

**Table 1** Explanations for the victim-offender overlap in prisons

	Are victimisation and offending related?	Do victimisation and offending take place at the same time?	Are the roles clear and identifiable?	Situational or organised?
1: Mutual assault/fight	Yes: same incident	Yes: same incident	No: ambiguous	Situational
2: Retaliation	Yes: different but related incidents	No: different incidents	Yes: role reversal	Situational
3: Unrelated acts	No: different and unrelated incidents	No: different and unrelated incidents	Yes	Can vary for each incident
4: Illicit economy (contraband trade)	Yes: in the same incident or in different but related incidents	Yes and no: different roles in the same incidents, or different roles in different but related incidents	No, unless full information is available	Organised

age, race, education level, offence and incarceration history and mental illness, among other risk factors (Kuo, 2019; Lahm, 2015; Listwan et al., 2014; Steiner et al., 2017). In reference to Table 1, the shared importation and deprivation characteristics for victimisation and offending in prison accounts for the existence of a victim-offender overlap; however, the theories fall short in clarifying whether acts are related or unrelated, and situational or organised in nature.

Social control and opportunity theory (a theoretical perspective combining control and routine-activity theories) adds an important situational component to the deprivation and importation perspective: regardless of the strains of incarceration and individual risk factors, incidents are more likely to take place in the absence of guardianship

(Choi & Wentling, 2021; Jiang & Fisher-Giorlando, 2002; McNeeley, 2021, 2022; Reyns et al., 2018; Steiner & Wooldredge, 2020). This means that unsupervised activities likely increase the risk of incidents, and make it more difficult to establish accurate accounts of what happened. Conversely, camera supervision at the very least can help identify offenders and victims, and disentangle the victim-offender overlap. Social control and opportunity theory can also account for the fact that people who engage in illicit activities in prison, for example using drugs, are more likely to become victims and offenders. In this sense, drug use and other activities associated with the illicit economy are part of a risky lifestyle, which increases exposure to risky situations and contributes to an individual's vulnerability to exploitation, extortion and (violent) debt recovery (Table 1, explanation 4). Through consideration of victim antagonism, social control and opportunity theory incorporates the mechanism of victim precipitation, which refers to the notion that victims may contribute to criminal events by creating circumstances that lead to victimisation or by provoking an aggressor (Table 1, explanation 1).<sup>1</sup>

Prior studies show that approximately 7% of incarcerated individuals in the US report that they committed physical or property offences and were also victimised (Daquin & Daigle, 2021; Toman, 2019). In the Netherlands, we have found similar numbers: in the Life in Custody Study, 6% of surveyed individuals self-reported victimisation and offending in the two months prior to the survey (Martens et al., 2021). We also compared characteristics of offenders, victims and victim-offenders, and found: (1) younger individuals more often report offending, but not victimisation; (2) individuals convicted of property offences report more offending and victimisation; (3) individuals in minimum-security regimes report victimisation and offending least often, while those in persistent-offender units report most offending. From these numbers we cannot deduce, however, whether there is a

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<sup>1</sup> This idea was first empirically tested by Wolfgang (1958), who found that 26% of homicide cases in Philadelphia in 1948-1952 could be classified as victim precipitated. The idea was later applied to other types of crimes, but heavily criticised for its victim-blaming implications and diverting attention away from systemic causes of crime (Timmer & Norman, 1984).

direct relationship between instances of offending and victimisation, or if the incidents are unrelated.

Research into the victim-offender overlap encounters multiple problems: first, the reasons for the overlap can vary widely, and the mechanisms for assaults and contraband-related incidents are likely different. Second, informing on fellow incarcerated individuals is considered ‘snitching’ or ‘grassing’ by the inmate code (Mitchell et al., 2017), and therefore official reports are unlikely to reflect the full truth that would be needed to establish roles and incident linkage. Researchers therefore have to collect their own data, which suffers from other limitations, not least of it the cost and effort of a sizeable project. Third, survey research thus far has been able to demonstrate that a victim-offender overlap exists, but not to what extent the aforementioned explanations can account for it. Interviews are arguably the best suitable method to connect separate incidents and triangulate accounts.

Two large-scale research projects in England and Wales have made especially important contributions to our understanding of the dynamics of the victim-offender overlap. In the first study, Edgar and O’Donnell (1998) surveyed and interviewed incarcerated individuals in two adult prisons and two young offender institutions on violent incidents (see also Edgar et al., 2003). They showed that various types of risky behaviour—including verbal or physical abuse of others and drug trading—can increase the risk of victimisation. One of the mechanisms behind the victim-offender overlap was victim precipitation, whereby the person who sustained the most serious injury had initiated the use of physical force (Table 1, explanation 1). Edgar and O’Donnell (1998) also illustrate how incarcerated individuals may engage in fights and commit assaults to reduce their perceived vulnerability and risk of victimisation. In many cases it may be difficult to determine who is victim or aggressor, particularly when this carries implications of blame: the contribution and role of parties may vary in terms of injury, who attacked first, and whose role or response could be considered more justifiable.

The second study, by Gooch and Treadwell (2020, 2022), offers insight in the victim-offender overlap in relation to the illicit economy (Table 1, explanation 4). They conducted ethnographic research on prison violence in three adult prisons and one young offender institution. Their research reveals a hierarchy of roles in relation to the

trading of drugs, primarily spice<sup>2</sup> in prison. The businessmen are at the top of the hierarchy; they control the trading and make the most profit, and they do not usually use drugs themselves. They can become involved in physical conflicts—sometimes even with fatal endings—over the control of the drug trading business. Most businessmen are respected and liked by staff members, and they have extra privileges in prison as a result of their ostensibly good behaviour. The men who make up the middle layer of the hierarchy, the middle men and foot soldiers, do the leg work for a small margin of the profits. Their work consists of collecting, keeping and distributing the drugs in prison. They also do the accounting: managing payments and collecting debts, which can involve threats and physical aggression. Foot soldiers are sometimes made to fulfil this role under threat or coercion, which makes them both a victim and an offender. At the bottom of the hierarchy are the drug users. Drug use is considered an offence, but it also increases the risk of victimisation.

Drug use makes people vulnerable to victimisation through the accrual of debts and the reduced likelihood that they will report victimisation, given their own role in the economy. People may also be vulnerable because they have an intellectual disability or are susceptible to social pressure for other reasons. These individuals may be easily coerced into bringing drugs into prison, for example through visits or letters, hiding the drugs in their cell, or giving up drugs they brought in to more powerful others. Related to this, scholars have recognised forced drug searches as a special category of sexual assault (Banbury et al., 2016; Wilkinson & Fleming, 2021; Wilkinson, this volume). Such drug searches can include forcible stripping, visual genital inspection, intimate touching and internal intimate searches. Wilkinson and Fleming (2021) found that, in a ten-year period, 136 reported incidents could be identified as prisoner-on-prisoner drug searches in prisons in England and Wales (which is likely an underestimate). Compared to other types

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<sup>2</sup> Spice is a synthetic drug that can be smoked. It is more difficult to detect than other drugs, because it has no odour and is invisible. It can be smuggled inside on drawings from children, fabricated legal letters, tax letters, and in clothes. It has a similar effect to THC in marijuana, but it is nearly impossible for users to know its strength. As a result, it is much more unpredictable and dangerous. Even small amounts of spice on paper have a large monetary value in prison.

of sexual assaults, drug searches were more likely to involve multiple perpetrators.

Of note are the changes that have taken place in the prison estate in England and Wales in the period between these two studies: while Edgar et al. (2003)—in their discussion of the victim-offender overlap—focus primarily on the dynamics of mutual assaults (Table 1, explanation 1) and retaliation (Table 1, explanation 2), Gooch and Treadwell (2020, 2022) emphasise the pervasive influence of the illicit economy (Table 1, explanation 4). This increased prominence of the illicit economy may be explained by various reasons, including physical deterioration of prison conditions, increases in the prison population coupled with staff shortages and technological developments (in particular, mobile phones and drone technology). As Gooch (2022) discusses, this also has theoretical implications: a culture of inmate solidarity and trading goods to ameliorate the pains of imprisonment as described by Sykes (1958) is largely superseded by a more professionalised illicit economy in which people take advantage of each other for individual gain and material survival. More generally, theories on offending and victimisation in prison should be revisited to (better) account for the victim-offender overlap.

This chapter adds a managerial perspective to the victim-offender overlap, particularly in relation to victimisation and offending in relation to the illicit prison economy (Table 1, explanation 4). The issues discussed above in relation to victimisation and offending are highly relevant to safety and order in prisons, and should therefore be a primary concern for prison managers. It may be difficult to effectively address the problem, however, if it is unclear who is victimised and who is responsible for the organisation of the illicit economy in prison. Gooch and Treadwell (2020) argued that the (changed) prison conditions particular to the Anglo-Welsh prison system are an important explanation for the changed nature of interpersonal dynamics, offending and victimisation and the omnipresence of illicit drugs (particularly spice) in the prisoner society. It is therefore informative to examine the extent to which these findings apply elsewhere, in this case to the Dutch prison system, and how prison managers approach the victim-offender overlap in terms of safety measures and sanctioning. The Dutch prison system, similar to the Anglo-Welsh system, has also dealt with budget cuts and an increased

demand on incarcerated individuals' self-governance, which is reflected in cuts in programming and conditional access to certain privileges, such as extra visitation, more desirable jobs and early release. Unlike England and Wales, however, prisons in the Netherlands are not plagued by overcrowding, and most buildings date from 1996 and later, so the material conditions are generally better.

## 2 The Victim-Offender Overlap from a Prison-Management Perspective

As part of a research project on The Social Ecology of Violence in Prisons,<sup>3</sup> 45 prison managers (directors and deputy directors) were interviewed in 23 prisons in the Netherlands between January and June 2023.<sup>4</sup> This covers nearly the entire prison estate of the Netherlands, with the exception of one prison that opened during the research period. Prisons in the Netherlands can house individuals on remand and those who are convicted (in separate units). The average age of respondents was 54 (*range* = 38 – 67), 28 were men and 17 women. Interviews were conducted by the author of this chapter. They took place in a private office in the prison, respondents gave informed consent, and all interviews were recorded and transcribed verbatim.<sup>5</sup> Two interviews were conducted with two participants, other interviews were conducted one-to-one. On average, interviews lasted 70 minutes. Respondents were asked about the problems with violence and safety in their prison. The themes discussed in this chapter emerged inductively from the interviews and were analytically organised into the three challenges, which were checked against the data by repeated listening to and reading of the interviews. For the purpose of this chapter, a decision was made to focus on contraband trading (predominantly including cannabis and mobile phones), which was regarded by most prison managers as a large, if not

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<sup>3</sup> This project is funded by the Dutch Research Council (NWO) as part of the research programme NWO Talent Programme Vidi (project number VI.vidi.211.003).

<sup>4</sup> Ethics approval was obtained for the study (Faculty of Law, Committee Ethics and Data, approval number 2022–040).

<sup>5</sup> Interviews were all held in Dutch. Quotes included in this chapter are translated from Dutch.

the largest, safety problem. They described a situation in which victimisation and offending are clearly overlapping, presenting special challenges for sanctioning. The findings discussed in this chapter apply primarily to the men's prisons; in women's prisons, contraband trading appeared less prevalent and less organised.<sup>6</sup>

## 2.1 Challenge 1: Prison Managers Are Required to Sanction Addiction-driven Drug Use

Drug use is prevalent in Dutch prisons. Prison managers report that cannabis is most often used, because it is—by far—most often identified in urine tests,<sup>7</sup> and also most often intercepted. It is also the most commonly used drug outside prison. Prison managers report feeling ambivalent about the drug use itself: the possession of small quantities of cannabis is condoned for private use in free society, and indeed, 23% of Dutch citizens reported ever having used cannabis, and 8% in the past year (Nationale Drug Monitor, 2022). Prison managers recognise that there are also recreational drug users among their staff. Pursuing the argument of normalisation, some prison managers would be open to considering how drug use can be regulated in prisons.

In society, it has become normal, really, that you smoke a joint; you can buy it on the street corner. And inside, it is like it was twenty, thirty years back, it is simply not allowed. It is not tolerated, period. So yes, society has developed and prisons have stalled in this regard. (...) I think the transition is very large for some people. (Prison manager 2)

Possession and use of soft drugs; we are busy hunting it down, while I am thinking, if you look at society and you want to normalise [imprisonment], soft drugs are used a lot. If you look at young people, it is really incredible, it is almost odd if you don't use. And here, we're are hunting it

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<sup>6</sup> A detailed examination of this difference is beyond the scope of this chapter, but this was possibly related to the difference in criminal history of incarcerated women (i.e. they were less often involved in drug markets outside prison as leaders or dealers).

<sup>7</sup> Periodic urine tests are better able to identify cannabis use than use of other drugs, because cannabis leaves traces for longer.

down, while when someone has control over their use of soft drugs, you barely notice it. And it is sanctioned quite severely. I struggle with that sometimes, I think, yes, I am actually more worried about whether you are able to re-integrate properly and are in control of your drug use, than that I sanction you every time but nothing else. (Prison manager 21)

Yet, prison managers do not currently perceive alternatives to sanctioning. In line with current penitentiary policy, users who are caught typically receive a sanction of a few days cellular confinement without television.<sup>8</sup> This concern with re-integration noted by Prison manager 21, is also iterated by other interviewees. The current approach of sanctioning drug use does not equip people with skills to manage their drug use responsibly, or deal with the issues that are related to their drug use.

If you want to teach people to deal with their problems and you keep them away from those problems, then you can't teach them. (...) With soft drugs [e.g. cannabis], this is so accepted in society, while here you keep them away from it, while on the outside it often has a relation to the problems of why they are in here. So, if you want to teach them to deal with that, it is a bit strange to keep them away from it. At the same time, I understand the political sensitivity and everything around it, but I think it is something that you should at least discuss, instead of rigidly saying, "no, drugs are never allowed in prison." (Prison manager 23)

This current rigid approach is underscored by the additional consequence that detected drug use leads to the mandatory removal of privileges (i.e. demotion to the basic programme) for at least six weeks if they were in the plus programme; this programme entitles people to an additional hour of visitation, private visits, more time out of cell, and is a requirement for some jobs or training and conditional release eligibility. Prison managers struggle especially with this second consequence, because demotion to the basic programme is regarded as interfering with re-integration preparation for people who may need it the most. Furthermore, they consider it double punishment for people who have

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<sup>8</sup> A distinction is made between 'soft drugs' including cannabis, magic mushrooms and benzodiazepines, and 'hard drugs' including cocaine, ecstasy, heroin and GHB. Spice is sanctioned in prison as a hard drug. Hard drugs are sanctioned more severely.

a limited ability to control their drug use because they are addicted and exposed to opportunities to buy and use drugs in prison. Respondents are worried that demotion discourages drug users from trying to address their addiction and other (often related) problems.

I may have someone who wants to stop using [cannabis], has been clean for two years, I am just making up an example, has a smoke from a joint on the yard, and I need to demote them straight away. If something is stupid, it's that. "Well, if this is how it goes, then I'll just start smoking cannabis again." (Prison manager 1)

I was raised with the idea that if you are addicted, you are ill. That has been researched quite a lot. Now it's the case that someone who is addicted and uses drugs here, I should punish for their illness. And on the one hand, I always punish, a disciplinary sanction, cellular confinement without television, but I also need to demote someone right away. And with that I think, well, that's someone with an illness, really, who you are giving pretty much a double punishment, while that's very different from someone who decidedly says, "it was my birthday, I wanted a joint, I smoked a joint." I really think that's different. (Prison manager 4)

These examples illustrate that mandatory demotion fails to recognise the difficult reality of substance recovery, and can have the opposite effect from what is intended. The interviews also reveal that treatment is not considered a very accessible alternative to a sanction in regular prison and pre-trial units (specialised units with more direct involvement of psychologists appear to have more treatment options).

Prison managers also report that the use of cannabis does not ostensibly lead to more problem behaviour by the drug users and does not directly threaten safety.

With soft drugs, it is not generally the case that people become very aggressive. Soft drugs are calming, so it doesn't directly affect safety. (...) The possession and use [of soft drugs] itself never leads to many problems. (Prison manager 38)

In fact, the absence of problems and the presence of a more peaceful atmosphere are even seen as indicators that are drugs inside.

When it's really relaxed [the atmosphere], there usually is also a lot [drugs]. Then it's peaceful. And then we know something, we catch something, and hoppa [things are not peaceful anymore]. So in a way you can say we create our own problem. (Prison manager 2)

There are weeks we don't have anything inside and then we are very satisfied. [The national search unit] will come and they will find absolutely nothing. That means we're completely clean, but you also see in the behaviour that there is a lot of unrest. (Prison manager 39)

The problems and unrest referred to by these prison managers can entail fights because drugs are intercepted and scores are settled regarding perceptions of blame or debts, or because people try to find ways to acquire drugs again. The no-drugs policy is at odds with society outside, but its enforcement is also a constant and—to some extent—unsuccessful battle. Certainly not every prison manager would support the idea of regulating drug use, but the current situation is recognised by most as unsatisfactory.

People are addicted. Do we not handle this too punitively? That is more a moral dilemma I, myself, have. When I think what starts trouble here it's drugs, because they want to get their hands on it. That gives conflict, because if it goes wrong with the import, debts will be settled, because they still have to pay. That's why it's the biggest problem. (Prison manager 39)

The fact that soft drugs are not distributed in any legal or medical fashion creates a market for illegal trading, which in turn creates problems of exploitation and violence. While more treatment options are considered desirable, the majority of prisoners do not serve long sentences, so their stay is too short to treat their addiction problems adequately:

The average time someone spends here is between 15 and 75 days. I do not have the illusions that I will turn them into model citizens. (Prison manager 39)

Some prison managers also express an understanding for the use of drugs to decrease stress levels and relax, especially considering the difficult circumstances that often surround imprisonment and the lack of distractions when people are behind their door. It is seen as a problem that easy access to drugs may interfere with addiction recovery, and even encourages people who have never used drugs to start using. This is a valid concern considering that a recent Belgian study reported that 14% of surveyed individuals reported that they started using drugs in prison (Favril, 2023). The largest problem related to drug use is—the same as in free society—that it requires the supply of drugs, which is associated with far-stretching and highly profitable criminal activities. There are various tasks in the supply chain of contraband, particularly the distribution of drugs, where the roles of victim and offender are ambiguous or difficult to prove. Unregulated drug use, addiction and associated debt accrual make people vulnerable to exploitation in the supply chain.

## **2.2 Challenge 2: Prison Manager Often Sanction People Who Act Under Duress**

Prison managers suspect that many contraband-related offences are committed under duress. Typical offences that are done by ‘foot soldiers’ (Gooch & Treadwell, 2020) are hiding contraband in one’s cell, receiving drugs during a visit (sometimes with unknown visitors), collecting contraband thrown over the wall or dropped by a drone or returning with drugs after temporary release.

Prisoners sometimes tell me “I am pressured”, but they often won’t say by whom, because they don’t want to inform on each other. But I get a lot of information when I talk to them for sanctioning purposes. When I ask, “what really happened?” Well, eventually-, you know, often they first say nothing, but when you keep asking you find out that conflicts are often about drugs, or use, or things they promised each other, or people are put under pressure to bring things in, you know, when they go on temporary release. So I think drug use itself, if someone smokes a joint in the evening on their cell-, well, it’s not good of course, but I think the indirect effects are really worrisome. (Prison manager 26)

The indirect effects this prison manager refers to are the dynamics of the drug trade, which means that these people commit offences but are also victimised by others: they are put under pressure using threats, or because they feel powerless to refuse demands by others. For example, when contraband is found in a double cell, both residents are held responsible, unless one person is evidently blameless. Prison managers suspect that it is not uncommon that the person who admits to hiding contraband in a cell is covering for their cellmate. They often sanction the person who confessed, even knowing that they are likely not the true offender. When prison managers suspect this or when a person admits they committed the offence under duress, a sanction is still perceived as the only option, unless a person gives information on whose orders they were acting (which they usually refuse to do).

When you're talking about violence and aggression, some guys have nothing to lose, so that makes it easier for them to take a risk, let themselves be used, or they think it's fine. (...)

*Interviewer: Is it always clear for you who is the victim or who is the offender, when you have to sanction people?*

Not always. But you notice-, staff often do know this and will say, "yes, he is confessing now, but we know for sure, [his cellmate] is clearly the dominant of the two." (...) And when they confess, I'll sometimes say to them, "then I can do nothing but give you a punishment." But I'll sometimes, when I talk to them in segregation, say to them, "are you sure?" (...) "I have a feeling that you are taking the blame for this other person." I'll try to tell them and staff do as well, but it's up to them to make the choice. (Prison manager 12)

People at all levels in the chain of drug use and distribution will hesitate to trust staff members about incidents of victimisation for various reasons. Because everyone in this chain fulfils an illegal role—making everyone an offender—it is extremely difficult to unearth what has happened and who is responsible. Moreover, informing on others—if discovered—usually also leads to victimisation. This also means that staff need to act very carefully if they suspect that people are coerced into

bringing drugs into prison or hiding them in their cell: if they transfer someone to another wing, this can raise suspicions that someone has talked, which can endanger this person. The line between victimisation and offending is very thin in these cases. Even though it is difficult to elicit information from prisoners, there are other ways for staff to draw inferences about offending and victimisation. Prison managers report the following as signs of possible victimisation or fear of victimisation related to the illicit economy: inexplicable injuries (i.e. injuries that appear the result of assault but that a person does not want to explain), withdrawal from life on the unit (self-isolation), and requests to be transferred to another unit or prison. People with an intellectual disability are considered especially vulnerable to exploitation; an estimated 45% of people in Dutch prisons fall in this category (Kaal, 2016). The size of this group also means that the problem is considered difficult to manage: in cases of proven victimisation people may be transferred to other units or prisons for their own protection, but without evidence transfers are often not possible. Prevention of victimisation is difficult, partly because those who are responsible often remain under the radar.

### **2.3 Challenge 3: The Leaders ‘In Charge’ of the Illicit Economy Are Difficult to Sanction**

The illegal activities of the leaders (the ‘business men’ in Gooch & Treadwell, 2020) are less visible, because they use other people to receive and distribute drugs. Their illegal activities are much more circumspect, and usually involve communication with sources outside prison. These leaders tend to be imprisoned for more serious crimes and therefore have lengthy sentences, which often comes with respect and status among peers. Their lengthy prison stay gives them time to build a network and business inside prison, and gain privileges. It also makes it more difficult for frontline staff to set clear limits on their behaviour; staff often build a relationship with incarcerated individuals on their unit over time, and a certain give-and-take is common to make their work easier. Examples may be the provision of an extra mattress, accepting cell inventories not wholly in line with requirements, or allowing time out of cell beyond

what is formally allowed. It is more difficult for staff to renege these privileges after having condoned them for a while. While good staff-prisoner relationships are associated with a safe prison climate, too much laxity in the enforcement of rules can also create conditions for illicit activities. The uncovering of the contribution of leaders to these activities requires time, resources and attentive staff.

There are various methods that can reveal who fulfils a leadership position in the illicit economy. All Dutch prisons have a Bureau of Intelligence and Security that can trace money transfers between prison accounts, and can also listen in to phone conversations (people need to be notified of this). Staff can help identify leaders by paying attention to (and mapping) social relations on a unit: who are the people often surrounded by others, who are given preferential treatment, for example access to phones, who make decisions about recreational activities such as gaming and watching television, and who do not get involved in conflicts but can often be found watching from a distance? Other identifiers are the way luxury and canteen items appear to be distributed among people in the unit: giving away items can be seen as a way to win over more vulnerable individuals and create a feeling of indebtedness and gratitude.

When certain people come in, with familiar names, you immediately see people swarming around them, giving them canteen products for free, so then you know already, those are the foot soldiers who will be doing all sorts of things. We keep a sharp eye on that, and we write about it in the reports. It's signalling and reporting, but very difficult to get a good grip on what is going on. Because they [the leaders] stay right under the surface, so that they aren't visible. (Prison manager 8)

Their leadership is not visible through bad behaviour, but instead can be identified—paradoxically—because they behave ostensibly well, and are usually (exceptionally) polite to staff. It is in their best interest to avoid unrest, such as cell inspections, because this disrupts their business. They may have jobs with more privileges, such as a cleaning job, which allows them to conduct business more freely. Any of the aforementioned identifiers are hardly punishable, and this type of profiling also

carries a risk of false accusations and the imposition of unfair or unwarranted restrictions. This makes reporting this behaviour more difficult, and sanctioning even more so. Sometimes, suspicious behaviour may be revealed through extensive investigations, for example money transfers.

Then we looked into the information behind the scenes, so not what we observe but information we have, and he turned out to be the City Bank. (...) We identified many financial transactions all leading to him. So yes, he had an interest in appearing as friendly as possible so he could manage his business. So you see some things on the front stage that are visible, but we also pay attention to the back stage. (Prison manager 11)

In this particular case, the money transfers were not illegal and thus not punishable, but it was decided not to extend the person's job contract as cleaner, in which he was able to move freely around the prison. Alternatively, prison managers—when they have received multiple signals that someone may be in charge of illicit activities and use others to do work for them—try to disrupt the relations by moving the person to another unit. The effects of such measures on victimisation and offending have not yet been studied, but certainly deserve attention.

### 3 Conclusion

The picture emerging from interviews with Dutch prison managers shows that contraband trading is one of the largest safety problems they are currently facing, and that this is responsible for complex dynamics related to victimisation and offending. The explanations for involvement in the illicit prison economy (and related victimisation and offending) vary depending on one's role. Deprivation and importation factors are still highly relevant for the drug users. They create the demand, because they want to use drugs to pass the time and enjoy its effects, or because they are addicted and cannot control their use. In response to this demand, the contraband trade has become professionalised, involves large sums of money and is tied to criminal activity and networks outside prison. Deprivation theory is not as relevant an explanation for

the leaders in charge; those at the top of the pyramid stand to gain much more than just a compensation for lacking services and goods in prison; contraband trading is a lucrative business model with gains inside and outside prison. Their role is often a continuation of criminal activity from outside prison; and indeed, many of the same dynamics can be witnessed in relation to drug trading and organised crime outside prison. Similar to dynamics of these crimes outside prison (Jacobs, 2000; Jacobs & Wright, 2006), involvement in the trade (particularly as a user or merchant, who receives, keeps or distributes goods) creates a risky lifestyle, which makes people vulnerable to victimisation if debts are not settled or anything goes awry, such as an intercepted delivery. Additionally, they are vulnerable to victimisation because their own criminal involvement reduces the likelihood that they will report anything. Finally, cultural norms obscure who fulfils what role, because informing on others is considered unacceptable. In the current study it became clear that even when prison managers would receive information, they were often unable to act directly on it, because they did not have hard evidence, and they had to consider the safety (but also possible ulterior motives, such as framing someone) of the person who reported the information.

The three challenges discussed in this chapter reveal the difficulties of addressing victimisation and offending—particularly in relation to the drug economy in prison—fairly and effectively. Prison managers struggle with balancing policy directives, re-integration needs, concerns for an individual's safety and safety and order in the prison more generally. Various recommendations may be considered for reducing offending and victimisation related to the drug economy. First, drug trading would not be so lucrative without so many drug users. While treatment is no panacea for resolving this problem, more treatment options—also in regular units—would be a worthwhile alternative or addition to sanctioning. In particular, it should be considered whether people who accept treatment for substance use can retain their privileges in the plus programme. Drug use may also lose some of its attraction if more activities are offered to occupy one's mind and time, also on evenings and weekend days. Second, it should be explored whether treatment

and education programmes could be combined with regulated distribution of cannabis, again with the aim to discourage trading, as well as to monitor the use of drugs and prevent the use of more harmful substances, including spice. It would be strongly advisable to evaluate such a harm reduction policy with a randomised controlled trial.<sup>9</sup> In general, considering the prevalence of drug use among the incarcerated population, it would be pertinent to consider how people can manage their drug use while simultaneously working on their re-integration. Third, staff supervision is important for preventing opportunities for offending and victimisation. While the staff-to-prisoner ratio contributes to staff's ability to observe and intervene in offending, other factors such as lay-out and visibility are equally important. Small units with a central staff office and good visibility of the entire unit, including the living/recreation room, reduce opportunities for illicit activities. Finally, prison managers were strongly in favour of installing in-cell telephones to increase legitimate opportunities to call loved ones and reduce the need for obtaining illegal phones. This would also help distinguish more clearly between people using a phone for continued criminal activity, versus those who use it for less nefarious purposes.<sup>10</sup>

The picture emerging from the interviews with Dutch prison managers shows important similarities and differences with prior research, in particular the research conducted by Gooch and Treadwell. A striking similarity is the prevalence of drugs in prison, and the professionalised nature of the trade. The sharpest difference with England and Wales is that the use and trade of spice do not appear to be nearly as prominent. In the Netherlands, cannabis was identified as the primary drug of choice. The health and behavioural risks associated with the use of cannabis are, arguably, less serious than with the use of spice. This was in line with the nature and seriousness of incidents described

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<sup>9</sup> The use of cannabis is not risk-free, especially for people with a predisposition for psychotic illnesses. An evaluation study should therefore also consider whether the use among people in this group decreases as a result of the proposed intervention.

<sup>10</sup> In-cell telephones were installed in some prisons in the Netherlands, and prison managers reported positive experiences. In addition to reducing the demand for illegal phones (which is yet to be examined quantitatively), it reportedly caused less unrest when evening programmes had to be cancelled, and removed conflict about the use of public phones on the wing.

in the interviews (i.e. less serious than described by Gooch & Treadwell, 2020, and little to no evidence of drug-related sexual assaults as described by Wilkinson & Fleming, 2021).<sup>11</sup> The apparent difference in seriousness of incidents between England and Wales and the Netherlands may have various explanations. First, cannabis as the preferred choice of drugs arguably carries less risk; this preference may be explained by the fact that spice has a much smaller presence in the Netherlands in general, while cannabis is very easily acquired and normalised to some extent. Second, the prison conditions in the Netherlands do not appear nearly as dire as in England and Wales, staff experience, presence and control appear greater and prison managers were actively trying to disrupt harmful power relations, and had some resources to investigate beyond immediately visible behaviour. At the same time, there were signals that staff shortages in some prisons threatened (perceived) safety, and led to reduced daily programmes which may in turn increase the attractiveness of drug use and continued criminal activity while people are locked up. The picture painted in studies conducted in England and Wales should be taken as a warning sign: an under-resourced prison system fails at even its most basic function of incapacitation, which carries severe health and safety risks for its population of incarcerated individuals and, ultimately, wider society.

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<sup>11</sup> Prison managers were explicitly asked about their awareness of sexual assaults, but this was very rarely reported. Contrary to the situation in England and Wales, Dutch prison managers were not familiar with the phenomenon of drug-related sexual assaults.

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