

4000

Top400

A top-down crime prevention strategy in Amsterdam



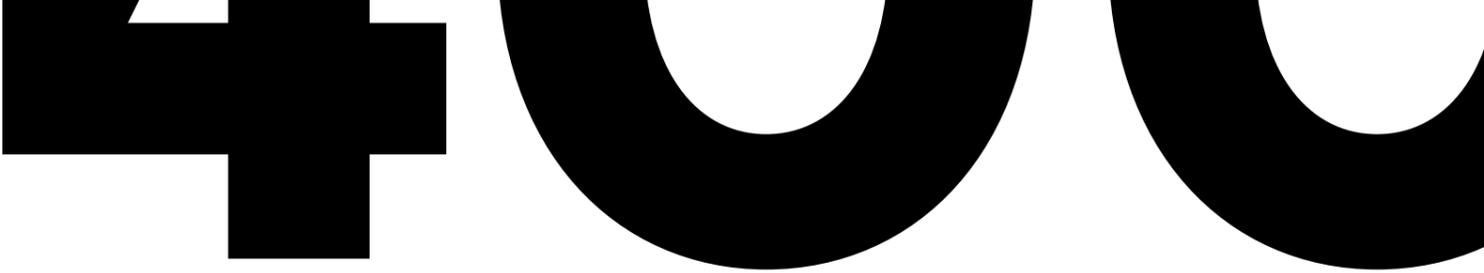


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Photo by Hisu Lee

Executive Summary

In 2011, the city of Amsterdam launched a predictive identification programme, the Top600, to reduce the number of high impact crime (HIC) incidents by structurally intervening in the lives of 'at-risk' individuals. 'Predictive identification' is a term used to describe any policing approach that develops and uses information and statistical analysis about individuals to inform forward-thinking crime prevention.¹ In 2016 the city of Amsterdam expanded the Top600 with the Top400, which includes a group of young 'high potentials', i.e. minors that have not committed serious offences but whose behaviour is considered a nuisance to the city.

This report provides a critical analysis of the Top400. The findings are based on a close reading of documents received from the municipality of Amsterdam and the Amsterdam police force in response to a Freedom of Information Act (FOIA) request submitted on 7 January 2020 and released on 3 December 2020.² The documents consist of memos to the mayor of Amsterdam, steering group and security triangle,³ internal documents and emails, Top400 motoring reports and, finally, presentations. The documents span the years 2014 - 2019. Where needed, it draws on FOIA documents on the Top600.⁴

The more than 4,000 pages of FOI documents offer insights into the origins, operations and conflicts of the Top400. What emerges is a picture of a top-down safety approach that allows a wide range of institutions to coordinate their actions in order to manage and control those minors and young adults whose behaviour is considered a nuisance to the city. The voices, experiences, and needs of the minors and their families are completely missing from them.

We are specifically concerned with the way the Top400 criminalises anti-social and teenage behaviour, instrumentalises care for crime prevention and testing new approaches on vulnerable minors and young adults via algorithmic decision-making processes.

The Top400 uses different data models to include minors in a crime prevention approach. We found that these models normalise and justify intrusive public scrutiny on minors and their families, and that these models are not an objective representation of crime but rather are politically informed, normative and continuously changing. The experimentation with the different data models reveals that it is not crime but the political desire to be 'tough on crime', to gain 'value for money' and to 'find' 400 minors that are informing the mandate and reach of the Top400. As a result, the programme continuously lowers the inclusion threshold to cast a wider net and draw more minors into the criminal justice system at an even earlier age, all under the guise of prevention.

Minors, families and communities that are dealing with complex social problems need good care. Scientific evidence has shown that predictive policing systems disproportionately target the most marginalized in society and reinforce structural discrimination.⁵ Public servants working on the Top400 acknowledge that being on the list is stigmatizing and invasive. Therefore, we recommend the following:

1. Policing and prosecutorial authorities must not be involved in access to social services and the provision of care.
2. Unless the city of Amsterdam is able to address the human rights, discrimination, access to justice and privacy concerns, it must halt the Top400 in its current form and operations.
3. The municipality must listen to the experiences, needs and voices of the minors and their parents in order to better inform approaches to improve these individuals' life chances.
4. The police must halt the development and implementation of ProKid+ and similar predictive policing tools.

This report consists of six sections. It starts with an explanation of the Top400 before the report goes on to discuss the main concerns: the criminalisation of nuisance behaviour, the instrumentalisation of care and control and experimentation 'in the wild'. The report will end with a set of recommendations. The documents provided by the city of Amsterdam and the police are in Dutch and, for the purpose of the report, quotes have been translated into English.⁶

This report is based on research done as part of the DATAJUSTICE project⁷ and written for the Public Interest Litigation Project (PILP). Cooperating partners include Mamamess, Controle Alt Delete, Bits of Freedom and Fair Trials.



2. Top400 approach

The Top400 is a safety and security programme run by the city of Amsterdam that aims to prevent minors and young adults from sliding down into a life of crime. The programme is framed as the care and control approach,⁸ the combined use of criminal and administrative law, and coordinates interventions from a wide range of public institutions⁹ to manage unwanted behaviour in the city. It aims to prevent those selected from having new and more serious police contacts.¹⁰

Modelled after the Top600, the Top400 consists of three main pillars, which are interrelated, namely:

- Tit-for-tat policy: fast, consistent and firm action to decrease HIC¹¹ offences and decrease the likelihood of recidivism
- Care and control: focus on behaviour change to improve the life perspectives of the minors and young adults
- Decreasing in-flow: a family approach to prevent in-flow and through-flow of brothers and sisters

These three pillars reveal how the combination of care and control operates like a carrot and a stick; compliance is rewarded with access to social services and undesirable behaviour is met with swift disciplinary measures by the police, public prosecutors and the broader state. Second, this approach is designed to spill over into the families of those on the Top400. Younger siblings and if there is suspicion of mental illness also the parents are routinely subjected to additional screening and interventions from the care authorities of Amsterdam.¹²

The Top400 is a top-down approach to crime prevention. The more than 4,000 pages of documents offer insight into the political aspirations of the then mayor and the city council, the process of expanding the Top600 with the Top400, the needs of the different public institutions, the development of the selection criteria, governance structures and the roles and relationships between the Actie Centrum Veiligheid¹³ (AcVZ) and participating partners. The voices, experiences, and needs of minors and families are not reflected in any of the documents and, to our knowledge, have not informed the development of the Top400.

Over the years, the city of Amsterdam has experimented with different data models to identify and select minors and young adults for the Top400. The drive to identify minors at an earlier stage in their lives, who are labelled as at risk of engaging in a life of crime, continuously lowers the threshold for inclusion and draws more minors into the criminal justice system at an even earlier age under the guise of prevention. The criminalising of unwanted behaviour and continuous softening of the criteria for inclusion to fill 400 places will be discussed in greater detail in Parts 3 and 5 of the report.

The documents do not really speak to the kind of control and care measures minors and young adults receive once they are included in the Top400. What we can deduce is that, once selected, each person is assigned a 'regisseur', who will henceforth be referred to as 'director', an employee of the city of Amsterdam or one of the collaborating public partners. The director is the point of contact for the minors and young adults and all participating stakeholders. The directors are responsible for creating an action plan, monitoring the behaviour of the person and coordinating the involvement of the different public authorities.

2.1 The origins of the Top400

Around 2010, the city of Amsterdam was confronted with a string of violent robberies. The mayor observed that even though the number of criminal offences was on the decline, the crimes that were committed were more violent and negatively impacted the public sense of safety. The city needed a new approach to crime prevention. Politically, there was a sense that traditional interventions of arrest and punishment were not working on a small group of prolific HIC offenders. It was felt that this group of prolific offenders must experience that crime does not pay, but that if they want out, there are support mechanisms to help them.¹⁴

In 2011, the then mayor of Amsterdam launched the Top600 to reduce the number of high impact crimes and prevent recidivism. The Top600 can be labelled a predictive identification programme, as it identifies known high impact crime offenders on the basis of police data to structurally intervene in their lives to prevent future crimes. This new approach to crime prevention was constructed along the above-mentioned pillars: tit-for-tat, combining control and care to manage the behaviour of the 600 known offenders and preventing their younger siblings from engaging in criminal activity.¹⁵

From the start, the municipality framed the potential success or failure of this new crime prevention approach as mainly depending on the commitment and dedication of public institutions to the Top600. Specifically, the municipality signalled a need for willingness to cooperate across institutions, commitment for the long haul even if short-term results might be disappointing, dedication to innovation and experimentation with disciplinary and care measures, and willingness to reprioritise institutional resources.¹⁶ This framework deflects criticism on the assumptions that underpinned this new and experimental crime prevention approach to a failure of public institutions to cooperate.

In 2014, three years after its launch, the Top600 was deemed a success.¹⁷ The municipality declares that success based on the dropping of recidivism rates, the increased outflow from the Top600 and Amsterdam resident's awareness of the programme and confidence in its ability to reduce crime.¹⁸ It is important to note that, here, success is measured on self-defined indicators that, in their current form, cannot demonstrate a correlation between crime reduction and the Top600. High impact crime was on the decline in Amsterdam, the Netherlands and across Europe before the introduction of the Top600,¹⁹ age is known to be one of the most robust indicators for the reduction of recidivism,²⁰ furthermore, name recognition and public sentiment say something about a sense of security--not actual security or actual effectiveness of the approach.

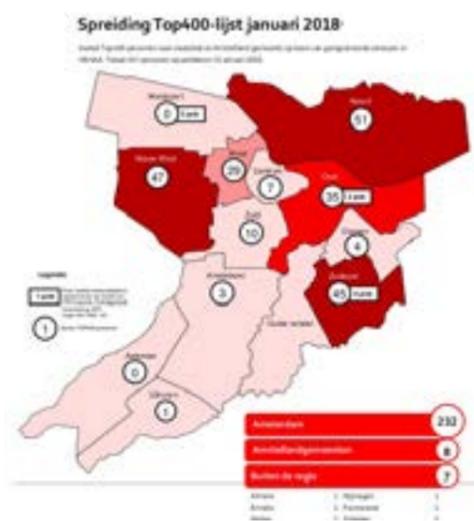
The self-proclaimed success of the Top600 informed the council coalition agreement 2014-2018.²¹ It was felt that there are more people who deserve the Top600 approach. The political ambition was set to not only continue with this approach, but expand it to a Top1000 and make additional (safety) resources available for its expansion. However, the implementing bodies noted that there is no 'reservoir' of people to fill the Top600, let alone expand it to 1000 individuals.²² In a meeting with the mayor and administrative committees²³ it was decided not to expand to a Top1000 but to create a separate programme that focusses on a group of 'young high potentials'.

The Top400 was born, with its own target group and selection criteria: minors and young adults who show concerning behaviour and, if nothing changes in their circumstances, are believed to be at risk of growing into new and more serious police contacts. Financially, the Top600 and the Top400 are financed through the municipality's safety budget and the allocation of resources within the public partners. The documents do not provide a clear overview of the total cost of this intervention, but in the council period 2015-2018, a total amount of 26 million euros was allocated to the Top600 and Top1000.²⁴

2.2 Fundamental rights harms

There are significant concerns about the Top400. It is an approach that selects minors on the basis of police and care data for forward-thinking crime prevention.²⁹ There is a growing body of scientific and public evidence to demonstrate how predictive identification systems disproportionately target the most marginalised in society, limit or obstruct access to justice and redress, and reinforce structural discrimination.³⁰ The document themselves reveal similar concerns with the Top400.

The directors and social workers acknowledge that being on the Top400 has positive and negative effects. They indicate that minors and young adults on Top400 would benefit from earlier, longer, better and more intense interventions. However, they express several concerns: social care fatigue resulting from the increased number of social workers that interact with the minors and their families, the vagueness of the selection criteria, selection done on suspicion and not committed crimes and, finally, that the association between the Top600 and Top400 leads to stigmatisation.²⁵



Distribution of Top400 minors 2018³¹

There is an absence of data on the ethnicity and socio-economic status of those on the Top400. The documents merely mention that ethnicity and nationality are not included in ProKid+.²⁶ However, the geographic distribution of the Top400 reveals that the distribution of minors is skewed towards the low-income and migrant neighbourhoods of Amsterdam.²⁷ In addition, the Top400 was set up to structurally intervene in the lives of those who are just 'below' the Top600. The Top600 FOIA documents do discuss ethnicity, where they observe that there is an over-representation of 'Moroccan' and 'Surinamese' juvenile suspects.²⁸

In addition, the directors note that the use of one specific data model, ProKid+, made it difficult to explain to the parents why their children were included in the Top400.³² ProKid+ is a predictive identification tool developed by the Dutch police. In 2016, 125 minors were selected for the Top400 on the basis of ProKid+, some of them selected without a 'serious' criminal component.³³ In an internal briefing to support public servants in the discussion with the parent of the ProKid+ minors, it was advised: 'DO NOT NAME: prokid (name of system),³⁴ likelihood of committing offence, predictive value, name of system.' Actively withholding this information impedes the minor's right to recourse and redress.

Once selected, a minor and young adult will be part of the Top400 approach for a minimum of two years. The behaviour of the persons, as registered in police databases, will determine whether this period gets extended.³⁵ The directors made the following observations:

'The police constantly ask for his ID when he walks down the street.'

*'The Top400 is really a stigma for these young people. Even if they are stopped because they don't have a light on their bike, the police still see them as the Top400.'*³⁶

This observation reflects the additional levels of police attention and scrutiny that comes with being included on the Top400.³⁷ Here, the design of the Top400 has made the outflow dependent on both the behaviour of the minor and the police. As such, the programme runs the risk of creating a self-fulfilling prophecy, where the over-policing of Top400 minors will keep them on the list for longer.

Finally, the third pillar—the encroachment of the state on the lives of the younger brothers and sisters of those selected for the Top400 to 'decreasing in-flow'—is controversial. This so called 'precautionary' approach increases levels of state attention and scrutiny on the younger siblings. Yet research into the Top600 notes that scientific evidence for this 'precautionary' approach is missing and that many younger siblings make different choices than their brothers.³⁸ Despite these concerns, the document reveals that when the Top400 was designed, this controversial approach was copied without any discussion of its proportionality.

3. Criminalising Nuisance Behaviour

Who are these at-risk minors and young adults? According to the documents, the minors and young adults selected for the Top400 can often be found on the street,³⁹ where they display criminal behaviour and show worrying signs, such as public displays of anti-social behaviour, debts, school absenteeism and, oftentimes, slight cognitive disorders. The fact that the Top400 selects minors for a crime prevention approach on police contacts and anti-social behaviour recorded in care databases criminalises nuisance behaviour and draws youths into the criminal justice system at an even earlier age under the guise of prevention.

The Top400 consists of a group of minors and young adults that cannot be considered prolific or violent offenders, which would qualify them for the Top600, but who are believed to be, if nothing changes in their circumstances, at risk of engaging new and more serious police contacts. The specific criteria on which they were included in the Top400 have been subjected to numerous changes. In 2021, the municipality website⁴⁰ indicated that there were two pathways for inclusion: 1) to have been arrested on the suspicion of committing a criminal offence and have other indications for concern or 2) to have been arrested as a suspect and have other entries in the police databases. In the past, the police algorithm ProKid+ was a third pathway for inclusion, which will be discussed in Section 5, Experimenting in the Wild.

At its core, the Top400 is a crime prevention programme that exposes minors and their family to intensive state attention and scrutiny. This level of state interference needs to be justified in relation to the risk these minors pose to society. Having been arrested on suspicion of a crime in combination with having had other encounters with the care institutions and the police feels disproportionate as it criminalises certain teenage and anti-social behaviour. Being penalised for being a victim or witness of domestic violence, school absenteeism and having other police contacts is especially problematic, as the minor has little control over these incidents.

To offer insight into the different ways in which the Top400 ended up criminalising nuisance behaviour, this section of the report will discuss the normative understanding of what is considered unwanted behaviour and how political pressure to fill the 400 spots resulted in the continuous desire to broaden the scope and change the variable for inclusion.

Top400 criteria 2021

1. Policing and care criteria

The first pathway, a mix of police and care criteria has been co-developed with the boroughs⁴¹ of Amsterdam, the municipality and other government stakeholders. A minor or young adult can be included if they have been arrested on the suspicion of one or more high impact crimes in the past 5 years and have at least 3 out of 7 care criteria applied to them. High Impact Crime in this context is defined as robbery, street robbery, burglary, aggravated assault, murder/murder or open violence against persons. The care criteria are that the minor or young adult:

- has (had) a youth rehabilitation measure (this item counts double)
- is or has been placed under supervision
- has, for example, frequently been absent from school or did not finish school
- has changed primary school at least 3 times
- has been involved in a domestic violence incident (as a victim, witness or suspect)
- was arrested as a suspect between the ages of 12 and 14
- has been arrested for dealing fake dope in the last 2 years

2. Police criteria

The second pathway is that a minor or young adult has been arrested as a suspect in the past 5 years and has other entries in the police databases

- has been a suspect of the police at least once in the past 5 years
- has had other contacts with the police
- and/or people in their direct environment have had contact with the police



Nirit Peled (photo's shot during research and on the set of the documentary)

3.1 Selecting the 'right' kids

The development and continuous adjustment of the policing and care variables reveal that while these criteria are presented as an objective representation of concerning behaviour, they are in fact normative understandings of the problem. At the start, a dedicated working group was formed to operationalize the political desire to expand the Top600 by creating actionable selection criteria on which minors and young adults would be selected for the Top400.

The first step was to determine the program's boundaries. Operationally, the budget and institutional capacity set the target number at 400 individuals between the age of 12-24.⁴² This age range was determined by the Dutch legal framework; minors under the age of 12 cannot be prosecuted and adolescent criminal law introduced in 2014 stipulates that when a young adult between the age of sixteen to twenty-three years is arraigned, a judge can take their maturity and circumstance into account and decide to apply juvenile justice law or adult criminal law.⁴³

The second step was to create the variables for inclusion. A Top400 profile was created from insights from existing criminology literature, experience with the Top600, and in discussion with the boroughs. The voices of the latter were included to ensure that the Top400 would sufficiently include those minors and young adults who cause the most nuisance in the eyes of public servants.⁴⁴

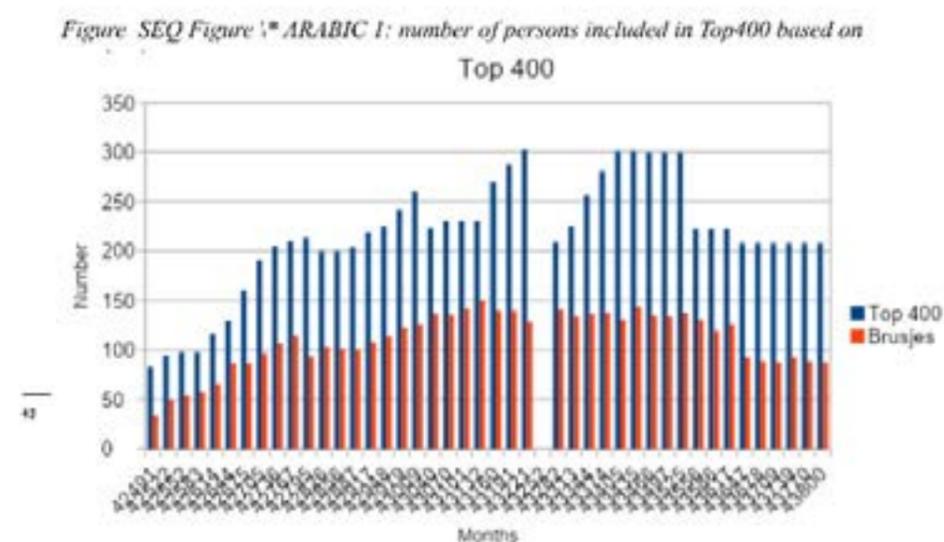
*'The proposal is to provide a Top10 of troublemakers for each district and Amstelland municipality.'*⁴⁵

Concretely, the boroughs were asked to offer a TopX and later a Top-10 list of minors and young adults, that they would like to see included in the Top400. Analysts looked at the shared characteristics between the police and care histories of these individuals. These formed the Top400 profile on which the first minors and young adults were selected for the Top400.

It is imperative to note that this process has created a normative view of at-risk young adults. It focussed on anti-social behaviour that is displayed and recorded on the streets and is viewed as a nuisance by city employees. In other areas of Amsterdam or the Netherlands, similar behaviour might not be recorded in police and care databases, as these events might take place in less policed areas or families who are less reliant on the state. However, for these minors who are predominantly based in lower-income and migrant neighbourhoods, it becomes a reason to be included in an invasive state approach.

3.2 Finding 400 minors

The name Top400 is not merely a name, it represents the political ambition to include 400 'high potentials' for this approach. Figure 1 shows the number of minors and young adults included in the Top400 and the Brusjes, their younger brothers and sisters, who also receive additional screening and attention from the public authorities in the period between May 2016 and December 2019.⁴⁶ In the first three and half years of its existence, the program has never filled the 400 places.



Political pressure to fill the 400 places started discussions on the expansion and softening of the police and care criteria. The documents suggest that the city felt there are minors and young adults who show concerning behaviour but do not meet the selection criteria. Their behaviour is about nuisance and not about crime and their police contacts are 'lighter'.

"We have a new inflow for the Top400 and it is considerably smaller than 170. On the one hand, this is good news: we are not seeing more young people/young adults who meet these criteria. On the other hand: we will not reach 400 this year".⁴⁸

It was decided to add variables that will allow the city to include minors who are believed to be part of prioritized youth gangs and criminal groups and explore criteria that allow the identification of anti-social behaviour that was not captured in the original Top400 criteria.⁴⁹ Adapting the criteria not only allows the municipality to retrofit more minors and young adults to the approach, but the implementers also believe that it will allow them to align the Top400 with more current security issues.

Adapting the criteria not only allow them to retrofit more minors and young adult to the approach, but the implementers also believe it will allow them to align the Top400 with more current security issues. This discrepancy between the political ambitions and financial resources made available to this approach did not go unnoticed.

"Following questions from the VVD (Ms. Poot) and from the PvdO (Mr. Van Brug) and from the CDA (Mr. Boomsma), Ms. Ollongren has promised a written response to the question of whether or not we should stretch the criteria for the Top400, as there is only an inflow of 213"

"The Top400 includes two hundred people, while there is money is for four hundred. Can criteria be stretched?"⁴⁷

3.3 Broadening the web

In 2018 a new city council was inaugurated. The coalition is more left-socialist than the previous and their new coalition agreement 2018-2022,⁵⁰ 'A new spring and a new sound' has impacted the direction of the Top400. In an email written on October 2018, it was noted that "the Top400 is under pressure. It has been discussed that Top400 really should be very different. Much more focus on prevention and involvement of youth work and so on".⁵¹ The intention is to broaden the Top400 to span a wider group of at-risk minors and make its expertise available to those working in the neighbourhoods, which runs the risk of extending the crime prevention arm of the state even further into lower-income and migrant neighbourhoods.

In 2019 the discussion on who should qualify for the Top400 regained prominence. It was noted that the city of Amsterdam was still unable to fill the 400 places. "In total, there are now 222 people on the Top400 list. So there is still room".⁵² A proposal was made to explore the possibility of directing the additional capacity of the Top400 at a preventative approach aimed at vulnerable groups of at-risk youth. To close the safety net around vulnerable young people, such as young victims and perpetrators of extortion, bullying or sexual exploitation, as well as those at risk of sliding into drug crime, can be helped better.

The shift towards softer problems and new target groups show that once a bureaucratic security infrastructure is established its continuation is not dependent on its mandate or the proportionality of the approach, but on its ability to adapt and encompass different social problems within its operations. Again the expansion is based on the self-proclaimed efficiency of the Top400 and their expertise in coordinating interventions across different public authorities. There is no mention of an independent evaluation in the documents.

The documents speak of two possible pilots. The first will link the Top400 directors to the boroughs and the neighbourhood police teams. The director can take on some of the coordination responsibilities and or share their network and expertise for those minors who show behaviour that is concerning but not that concerning that it would justify an integral person-based approach. The second is to link the directors to the schools, support the schools in dealing with complex cases and coordinate with the care and police partners.

It is clear that the Mayor, Elderman, city council, and implementing organizations do not question the assumption underpinning the approach, its effectiveness and proportionality, nor the risk of further criminalising nuisance behaviour. The proposition is that the AcVZ will remain in the lead and the same institutions will be involved; what will be different is that there will be more emphasis on care over control for crime prevention and that the Top400 will go by a different name. The latter approach should allow the Top400 to be decoupled in public opinion from the Top600 and limit the stigmatisation of the current and future, potentially much broader, group of minors and young adults⁵³.

4. Instrumentalises care for crime prevention

At its core, the Top400 approach aims to coordinate activities between a range of public authorities, the municipality and organizations such as the police, the Public Health Service and child protective services for the purpose of crime prevention. The city of Amsterdam believes effective crime prevention is dependent on how young criminals are approached. Smart cooperation between public authorities is believed to offer a more coherent treatment.⁵⁴ However, the documents reveal that this approach instrumentalises care for crime prevention.

The municipalities problem statement is that these minors and young adults are often already subjected to the intervention of multiple public authorities, and while all participating stakeholders have good intentions, they work along separate tracks.⁵⁵ It is not the intention to change the approach and measures of the participating stakeholders, but rather the Top400 introduced a new and focused working method that is based on increased cooperation between public institutions.

In the documents, there is little to no reflection on what it means to integrate social services and care authorities in a crime prevention approach. Nor what the unintended consequences are when social services like schools, street coaches, and health services become the extension of policing and the security mandate of the state. Such as, combining repression and control with care and support can reinforce the sense that the state is against these minors and their families, create distrust towards social services and undermine care efforts.⁵⁶

Yet, the documents do reveal a clear tension in the security mandate of the Top400 and its aim to combine control with care measures. In the initial days of the Top400 the implementing partners, such as care authorities, the police, and the public prosecutor's office, stress the importance of care. While the city council coalition partner 2015-2018, the VVD⁵⁷ wanted the approach to focus on crime-fighting, privileging security and punishment over prevention.

This tension also becomes visible in the discussions around the allocation of financial resources. There is a budget line that allows the Top400 to make a financial contribution to the minor for food, clothing, medical treatment, public transport or gym membership costs. This contribution is only made if and when the Top400 believes this could have a positive impact on someone's life. In the interim report, the coordinating body notes that this type of financial support can be controversial. They are worried that public opinion will be critical of financial support given to this target group that is not given to the 'ordinary' Amsterdammer. Indicating that there is political hesitance to spend the city's safety resources on measures that focus on life changes over those that control and punish.

The political emphasis on control and crime prevention and the operational trade-off on who is allowed to access services that can have a positive impact on someone's life demonstrates how control is the primary objective and care is the secondary objective. In the eyes of the city, social services, and the care authorities those on the Top400 are no longer minors and young adults who have a range of challenges and opportunities but are labelled as being at risk of becoming a future criminals. The instrumentalisation of care for policing will be discussed along three specific interventions; street coaches, schools, and spillover into the families.

4.1 Street coaches prevention

Since December 2016 the Top400 is coordinating their efforts with street coaches of Stichting Aanpak Overlast Amsterdam (SAOA) to improve the information position of the directors and address certain behaviour directly on the street as it happens. Established in 2006, SAOA is a foundation that on behalf of the city of Amsterdam is deploying street coaches and family visitors to fight youth nuisance in public spaces. Their approach is twofold, be present on the street and visit families in their homes. The Top400 invest in the relationship with SAOA from the assumption that the street coaches have a better information position on how a minor or young adult behaves, who they hang out with, and if they are part of a youth group.

A director can directly order a street coach to observe and report back on specific individuals, and also ask them to engage by complimenting or reprimanding specific behaviour. For example, a street coach can monitor and report back if someone is on the streets at times when they should be in school or notice if they have a new and expensive scooter while they have no official income. They can be asked to enforce a curfew or location restriction, and research online and social media⁵⁸ the behaviour of those minors who are on the Top400.⁵⁹ Making informants and enforcers out of street coaches instrumentalises them for an approach that at its core is about crime prevention.

The categories of nuisances that street coaches report on are as follows.⁶⁰

1. Sports and games nuisance: Football cage, ball games and the associated noise/shouting;
2. Pollution: Litter, rubbish, litter, urinating in public;
3. Vandalism: Vandalism, destruction of street furniture, destruction of cars/bikes/scooters
4. Noise pollution: Shouting, music, fireworks, scooters, car;
5. Substance use: Drinks/drugs related nuisance, laughing gas/lighter gas, (no drug trade, that is category 7);
6. Intimidation: Verbal/physical violence, threatening, cursing, deliberate insults, hindering residents, threat with weapons;
7. Nuisance related to "criminal activities: Drug trafficking, handling stolen goods, burglary;
8. Location-based nuisance: Phone store, tobacco store, hospitality industry, residential porch, supermarket, snack bar, coffee shops, schools, community centers, stalls/basements, indoor gardens, shopping centers, etc.;
9. Nighttime disturbing nuisance (nuisance after 10 p.m.).

Category 8 and 9 always need to be reported together with



4.2 Schools

Cooperation between the AcVZ and schools started with the Top600, as the list included minors that were still subject to compulsory education. The aim was to ensure they continue their education and get a basic qualification or at least get another meaningful daytime activity. Schools became a more interesting and prominent partner for the Top400 as the majority still belongs to the category of compulsory education. As such, the AcVZ is actively trying to strengthen the cooperation between schools, the program and the directors.⁶¹

The privacy protocol that governs data sharing about minors between the Top400 and educational institutions⁶² reveals that:

- the AcVZ will actively reach out and notify a designated contact person in the educational institution where a Top400 minor is enrolled;
- the school is then obliged to report any (impending!) school absenteeism to the director
- at the start of and at transition moments during the school year the school, the director, the minor, and where needed the parents will meet to make a plan to combat school absenteeism.⁶³

The privacy protocol described these minors as "a group who, without intervention, are likely to grow into the Top600 or other forms of serious crime".⁶⁴ Actively informing schools about the inclusion of a minor on the Top400 and asking them to share information with the directors runs the risk of further stigmatising them within an educational environment.

From the perspective of the Top400 cooperation with schools is invaluable. Education professionals spend a lot of time with at-risk minors and young adults and have a unique information position about changes in their behaviour. In the documents, it is noted that schools are hesitant about this cooperation. They express concerns that instrumentalising spaces for education for policing approaches can negatively impact the trust relationship schools have with the students and their parents.⁶⁵

4.3 Spillover effect on the family

Preventing the in-flow and through-flow of younger brothers and sisters, the *brusjes*, into criminal offending is an integral part of the Top400. Once a person is placed on the Top400 their younger brothers and sisters become an object for additional screening by the care authorities of Amsterdam. If deemed that these children are in need of (additional) care they are directed towards specific support organizations.

These screenings and care activities are organized depending on the age of the *brusjes*. Up till the age of 8 years the GGD⁶⁶ Safety Net is responsible for it, between 8 and 18 years the Preventive Intervention Team (PIT) is responsible. These institutions actively map out the (necessary) assistance and actively guide under-age siblings. In addition, child protective services Amsterdam and the William Schrikker Foundation, working on youth protection and rehabilitation, are also involved with many families and actively guide their siblings.

As mentioned in Section 2.1 of the report, this 'precautionary' approach facilitates disproportionate encroachment of the state in the lives of the younger brothers and sisters. There is no scientific evidence that demonstrates the effectiveness of such an approach. Rather, a study into the Top600 offer insight into how the 'precautionary' approach has placed age-related nuisance behaviour of younger siblings of the Top600 under a magnifying glass by child-protected services.⁶⁷ Behaviour that would otherwise not warrant these additional levels of state attention and scrutiny.

Another intervention is the screening of the parents. If there is a suspicion of mental health issues in the families of the Top400 persons the Public Health Service (GGD) screens the parent of them by making a brief problem inventory of the somatic, psychiatric, and addiction problems, including a biography of the family of the person involved. The purpose of this screening is to, where needed, be able to refer and motivate parents to an appropriate (regular) care offer if necessary. This can be a GP, but also other care programs.

Family screening

The screening consists of checking if there are somatic, psychiatric and addiction problems in the minor and young adults' family. There are a number of variables that are included in the screening, and these range from demographic characteristics (age, ethnicity), financial situation (income, debts), daytime activities (school, work), living situation (location, degree of sustainability), presence of psychopathology (1. substance use/dependency, anxiety/mood, ADHD/impulse, psychosis or 2. personality or learning disability) or specific criminogenic factors (socialising with wrongful/criminal friends, criminal family members, abnormal/disturbed behaviour family members).⁶⁸

Moving into the future the project team proposed in 2019 to expand the focus on the parents of the Top400. Currently, the Top400 is primarily directed at minors and young adults and their brothers and sisters. However, the implementing organizations justify the further encroachment in the family by arguing that better parenting skills are crucial to prevent at-risk children from further slipping into a life of crime. Therefore the capacities and vulnerabilities of the parent need to be assessed and more effort should be placed to more effectively include them in the approach.⁶⁹

The problem with a top-down approach to social problems is that it centres the needs of the bureaucracy over the needs of those impacted. From this perspective, the instrumentalisation of care for policing, the allocation of care resources for crime prevention purposes, making informants of care workers, and closing and tightening the web around minors and their families are not questioned and seen as something positive. The exclusion of the voices and needs of the minors and their families from the development and implementation of any care or policing intervention fails to incorporate much-needed insights and critiques.

5. Experimenting in the wild

The Top400, the combination of care and control and its interventions, can be considered an experiment. Its origin and the assumed positive correlation of institutionalizing care for policing are based on political ambitions and the self-proclaimed success of the Top600. To our knowledge, there has been no independent evaluation done on the Top600 or Top400. In addition, the documents that summarized interviews with social workers involved with the Top400 approach noted that:

"The Top400 approach operates very swiftly, it acts first and thinks later. This is not always useful, sometimes it's better to think things through and then act".

"The Top400 has no scientific basis. The directors come from all sorts of organizations and there are no real methodologies. You do something because you think it is right. This can work really well but you can also get lost. There is little criminological knowledge among the directors and there is much we can learn from science".⁷⁰

These observations are deeply concerning in light of the real world impact the Top400 has on minors and young adults; ranging from criminalizing anti-social behaviour, and stigmatisation, to the infringement of their fundamental rights. The experimentation on minors, families, and communities becomes even more visible with the introduction and halting of Prokid+.

5.1 Prokid+

On the 1st of July 2016, 125 minors and young adults were included on the Top400 on the basis of a new police risk assessment tool, Prokid+. This model looks at concerning behaviour registered in police databases to predict the risk that a person in the age range of 12-18 will commit at least one robbery at some point in the future. Prokid+ makes its selection on police contacts of the minor and that of their immediate environment, i.e. family and friends, that are registered in the police database.

Prokid+ mode looks at:

- The person: information from incidents in which the person was a suspect (including what, when, how often, in what pattern)
- The domicile environment: information on incidents on the address of the person that is registered in police systems (including what, who, what relationship to the person, type of involvement, how often, and frequency)
- The social environment: information about co-perpetrators with whom the person shares one or more police mutations.

In a memo⁷¹ to the Mayor of Amsterdam on the 15 of December 2016, the coordinating body explains the day-to-day challenges when using ProKid+. The fact that these 125 minors have not committed any 'serious' criminal offences makes it difficult to explain to their parents why they are included on the Top400. As mentioned in section 1.2 fundamental rights of minor were harmed by the active advice to misinform the parent as it impedes on their right to redress and recourse.

In a memo to the steering committee on June 9th 2017,⁷² the AcVZ elaborate on the dilemma that ProKid+ creates. On the one hand, these are the young people whose behaviour is thus far concerning that the municipality and other public authorities want to intervene pre-emptively before it becomes more serious and they come into contact with the police again or start committing (more serious) crimes. On the other hand, these are persons whose behaviour is not always so problematic that an intensive approach, including police attention, seems justified.

“The Top400 inflow from Prokid are really still in a preventative stages and as such really need a different approach”⁷³

This observation challenges the justification of subjecting 125 Prokid+ minors, their younger siblings, and broader family to an invasive state crime prevention approach. ‘Not so problematic behaviour’ does not seem a proportionate inclusion criterion for the severity of the Top400 approach.

What is additionally concerning is that the AcVZ made a recommendation to the Mayor to temporarily halt the use of Prokid+ but kept the 125 Prokid+ minors included in the Top400 for the full 2 years.⁷⁴ This suggests that there is little accountability for experimenting on minors, who as a result are disproportionately impacted by care and control approach and drawn into the criminal justice system at an even earlier age under the guise of prevention.

After the initial experiment, Prokid+ was no longer used by the Top400.⁷⁵ However, its use shows the problematic nature of experimenting with new data models to fill 400 places. While the models themselves might be halted the minors included on its basis are still subjected to an approach that is stigmatizing and infringed on their fundamental rights. Even when the ‘softer’ criteria for inclusion can not be considered proportionate to the length and the severity of the Top400 approach.

6. Recommendations

The Top400 is a crime prevention programme that allows the city of Amsterdam to structurally intervene in the lives of minors and young adults. The aim of this report is not to question the municipalities’ responsibility to ensure the safety and security of all its citizens, including the minors that are on the Top400 and their families and communities. However, on the basis of this research, it is important to question whose security and safety is prioritised, and at the expense of whom.

There appear to be serious human rights, discrimination, access to justice and privacy concerns in the fabric of the Top400 that need to be addressed by the city of Amsterdam and its implementing partners. The merging of social services and care institutions with the criminal justice system for a crime prevention mandate is in itself problematic. Minors, families and communities dealing with complex social problems need good care. Municipal approaches to improving life changes should be rooted in care and support, informed by the needs of the communities and provided through social services and care institutions. Control and repression should be separated from care interventions. The apparent deep involvement of the police and criminal justice institutions in the lives of Top400 minors, who have not been convicted of a crime, and their families and communities and the reliance on police data for influx and outflow of minors does not adhere to the proportionality principles.

Therefore, we recommend the following:

1. Policing and prosecutorial authorities must not be involved in access to social services and the provision of care.
2. Unless the city of Amsterdam is able to address the human rights, discrimination, access to justice, and privacy concerns it must halt the Top400 in its current form and operations.
3. The municipality must listen to the experiences, needs and voices of the minors and their parents in order to inform approaches to improve their life chances.
4. The police must halt the development and implementation of ProKid+ and similar predictive policing tools.⁷⁶

Colophon

Published: November 2022

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Freedom of Information Act Request Top400 and Top600: Public Interest Litigation Project

Edited: Adam Frick, Effective English

Design: idiotēs, Jim Bezuijen, Pien Kramer and Floor de Jong

Images

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Endnotes

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28. F10 Oplegger voor PEG over Prokid+
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30. Actiecentrum Veiligheid en Zorg (2016). D57 Memo aan Burgemeester. Onderwerp Toekomstscenario's Top1000. Gemeente Amsterdam 15 December 2016
31. F37 Punten ter ondersteuning bij gesprekken met ouders (prokid-instroom)
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33. FOIA Top600: F24 Oplegnotitie Driehoek: Agendapunt.. : Top600 koppeling met onderzoek 'jeugdige verdachten'. 18 April 2011
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Nirit Peled (photo's shot during research and on the set of the documentary